

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

\* \* \* \*

THE BOEING COMPANY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
AETNA CASUALTY AND SURETY )  
COMPANY, et al., )  
 )  
Defendants. )  
 )

NO. C86-352WD

TRANSCRIPT OF PROCEEDINGS in the above-entitled and  
-numbered cause, before the Honorable William L. Dwyer,  
United States District Court Judge, on August 22, 1990.

1 (Jury not present.)

2 THE COURT: Be seated, please. Do counsel have  
3 something to take up?

4 MR. UMLAUF: Yes, Your Honor. On the matter of the  
5 Nieuwenhuis slide show, I just learned that Mr. Bob Sayler  
6 intends to read the script and put on the slide show and this  
7 is our first notice of it. We object to it. We have had no  
8 opportunity to cross-examine Mr. Sayler regarding the slide  
9 show. We think it is highly prejudicial for him to put it on.

10 THE COURT: When the slide show was presented to  
11 Boeing, the script was part of it, wasn't it?

12 MR. UMLAUF: Yes. Well, actually no, Your Honor,  
13 Boeing wrote the script. We have no evidence it was presented  
14 to them. It was presented by Mr. Nieuwenhuis with their help  
15 to other people.

16 THE COURT: Would you mind starting over again, Mr.  
17 Schoeggl; the reporter didn't get what you're saying.

18 MR. SCHOEGGL: Your Honor, it is our understanding  
19 that the slide show was never presented to Boeing. In fact,  
20 Mr. Nieuwenhuis will testify that Boeing actually helped him  
21 write the script and coordinated the script with the slides and  
22 then it was presented with Boeing's help to other people.

23 So as far as we know, there is no evidence it was  
24 actually presented to them. Although they certainly knew what  
25 it said because they helped write it.

1 THE COURT: What is plaintiff's response?

2 MR. GORDON: I don't accept the representation Boeing  
3 wrote the script. I think it was developed by Mr. Nieuwenhuis  
4 with the help of others, including Allan Poole. Be that as it  
5 may, it was shown to Boeing plant two. Mr. Nieuwenhuis would  
6 so testify. Mr. Sargent saw the tape, the presentation.

7 My concern is if we show the slides without the  
8 benefit of what he is purporting to show to people, then they  
9 don't have any context in the which to analyze what they're  
10 seeing.

11 THE COURT: I gather there is no dispute that the  
12 slide show with the script was presented to Boeing executives,  
13 is that true?

14 MR. SCHOEGL: I'm not aware of any. I don't remember  
15 Mr. Nieuwenhuis ever saying that.

16 MR. GORDON: I think the evidence will be undisputed  
17 that Boeing people saw the slide show with Mr. Nieuwenhuis  
18 giving it. He memorialized what he said in the script and from  
19 time to time he would send that slide show to others with the  
20 script and others could read it. But that's how the script got  
21 prepared. It's in the deposition.

22 THE COURT: So that I'm entirely clear, then, did some  
23 Boeing people receive or hear and see the slide show with the  
24 script as the script now stands?

25 MR. GORDON: It's my understanding. Now, Mr.

1 Sargent--

2 THE COURT: What is the evidence, though. What does  
3 the evidence show?

4 MR. GORDON: He would say he saw the slide show with  
5 Mr. Nieuwenhuis giving it.

6 THE COURT: With this script?

7 MR. GORDON: With the presentation.

8 THE COURT: With this script?

9 MR. GORDON: The script represents what Mr.  
10 Nieuwenhuis was saying. Now, whether Mr. Nieuwenhuis read that  
11 precise script, I don't know. I don't want to misrepresent  
12 anything, but the evidence will be undisputed that the slide  
13 show was given to many people, including people at Boeing. If  
14 there is any dispute over it, I'll bring down Mr. Nieuwenhuis,  
15 or we can bring down Mr. Nieuwenhuis.

16 THE COURT: Is there any dispute that this script  
17 represents the substance, at least, of what Mr. Nieuwenhuis  
18 said when he presented the slides to Boeing?

19 MR. GORDON: I don't believe so, but I can't speak for  
20 my opponents.

21 MR. UMLAUF: I don't know what the evidence is in  
22 terms of whether -- how this script matches up to the exact  
23 presentation that Mr. Nieuwenhuis gave to the Boeing Company.  
24 I'm not aware of any testimony by Mr. Sargent or any other  
25 Boeing employees that said they saw this script with this slide

1 show.

2 THE COURT: What I asked was is there any dispute that  
3 this script represents the substance of the words given to  
4 Boeing with the slides?

5 MR. UMLAUF: Well, I don't know; I'll be honest.

6 THE COURT: So it's plaintiff's representation that  
7 evidence will be presented to connect this up so that the proof  
8 will be that this script contains at least the substance of  
9 what was given to the Boeing Company?

10 MR. GORDON: The evidence will be that the slide show  
11 presentation of Mr. Nieuwenhuis that was given to many people  
12 was seen by Mr. Sargent. If there is any dispute about going  
13 further, I will bring Mr. Nieuwenhuis down here or we can go  
14 depose him, because he will say he gave it to the Boeing people  
15 at plant two, which are probably additional Boeing people.

16 THE COURT: With the script?

17 MR. GORDON: That script represents what he was  
18 giving, the presentation. The deposition itself says it's made  
19 in the ordinary course of business.

20 THE COURT: On the strength of plaintiff's  
21 representation the script may be used in evidence as evidence  
22 of notice provided to the Boeing Company. The script, of  
23 course, is not received for the truth of the contents, but only  
24 on the issue of notice.

25 MR. SCHOEGGL: Your Honor, could we have a limiting

1 instruction to the jury on that.

2 THE COURT: Yes. All right. Are we ready to go with  
3 the jury?

4 MR. SCHOEGL: We have one other short matter. The  
5 defendants would move to exclude witnesses. In other words,  
6 witnesses who have not yet testified.

7 THE COURT: This was a decision that was just reached.

8 MR. SCHOEGL: Yes. We reached it at lunch. We  
9 reached it at the morning recess and neglected to mention it to  
10 the Court and I apologize for that.

11 MR. GORDON: I don't care, Your Honor. I will defer  
12 to the Court on that. It makes no difference to me.

13 THE COURT: When that request is made, it's  
14 customarily granted and it will be granted in this instance, so  
15 the witnesses will be excluded. That does not apply, of  
16 course, to party representatives whose presence is necessary  
17 for the conduct of the trial.

18 MR. TILDEN: One further request. If the Court could,  
19 when the jury returns to the room, give the instruction  
20 explaining why the lawyers can't talk to them. I bumped into  
21 half a dozen over the course of the past three or four hours  
22 and I expect to bump into them frequently.

23 THE COURT: Yes, ordinarily I do that and apparently  
24 didn't at the beginning of the trial.

25 MR. TILDEN: You may have and I may have been doing

1 other things.

2 THE COURT: All right. Let's call the jury up.

3 (Jury present. )

4 THE COURT: Members of the jury, we had some legal  
5 points to take care of. They're now resolved and we're ready  
6 to go ahead. Before we start up again, there is one other  
7 matter about the customs of the Court that I want to mention to  
8 you. You may notice when you pass lawyers or parties in the  
9 hall or elevator that they won't greet you. That does not  
10 reflect any unfriendliness or lack of interest, but the reason  
11 is that it's customary that lawyers and parties don't greet  
12 juries in order to avoid any appearance of trying to curry  
13 favor or something of that nature. If you're not greeted,  
14 that's the only reason.

15 All right. Mr. O'Loughlin.

16 MR. O'LOUGHLIN: Thank you.

17 \* CROSS-EXAMINATION (Continued)

18 BY MR. O'LOUGHLIN:

19 Q Mr. Blunt, do you have Plaintiff's Exhibit 31 there, that  
20 1964 letter that we were talking about right before lunch?

21 A Yes.

22 Q There is a blowup here in front of us. I have one more  
23 sentence in that letter I would like to ask you a question  
24 about. The second paragraph in this letter, you talked about  
25 segregating, seperating waste. The last sentence in the second

1 paragraph reads, "Disposal of cyanides is something which we  
2 will have to continue working for a solution." What did that  
3 sentence mean?

4 A Well, cyanide is normally a chief way that you accomplish  
5 plating and cyanide is very toxic to nearly everything and  
6 requires a very special treatment, very special. In fact, if  
7 you apply and use that kind of treatment, you can't use it on  
8 anything else that I know of. But when you go to treat cyanide  
9 you have to be aware of public health problems. You know, it's  
10 deadly. Cyanide is deadly.

11 Q Isn't it true that Mr. Nieuwenhuis at that time was  
12 accepting cyanide from the Boeing Company and experimenting  
13 with some process, trying to figure out how to resolve this  
14 cyanide problem?

15 A I would imagine he did. I can't recall definitely that he  
16 did, but that was the way he operated, he did things like that.

17 Q That was referenced in this letter because you anticipated  
18 that the Boeing Company would assist or help Mr. Nieuwenhuis in  
19 trying to solve this problem of how to dispose of this toxic  
20 cyanide waste?

21 A Well, I even talked to Mr. Toftoy, that this man needed  
22 some help and some information when waste came to his plant and  
23 that they should do it. They knew what the source of it was  
24 and they knew what the chief contaminant was and they knew a  
25 lot of things about it and they should willingly inform him so



1 that he didn't have to get or go a technical route that he  
2 didn't have, but they did.

3 Q And the Mr. Toftoy you just referred to, he was the Boeing  
4 employee that you told that to?

5 A Mr. Toftoy was the Boeing employee that I contacted and we  
6 coordinated all this waste disposal permit application, review.

7 Q When you say they should help him, you meant Boeing, you  
8 were expecting Boeing to help Mr. Nieuwenhuis solve the cyanide  
9 waste disposal problem?

10 A I think it was only fair that they do that.

11 Q I am through with that document. The last letter there,  
12 there is a cc to C.F. Sargent. He was a high level Boeing  
13 executive --

14 A Yes.

15 Q -- that you didn't deal with directly, did you?

16 A I did not. Roy Harris did. If I wrote a letter, he may  
17 provide the cc's to people in the Boeing Company that he wanted  
18 to.

19 Q So you were aware that this high level Boeing executive,  
20 Mr. Sargent, dealt directly with the director of the PCC, Mr.  
21 Harris?

22 A Yes.

23 Q I'm through with that document. Thank you, Mr. Blunt.

24 MR. O'LOUGHLIN: Your Honor, we would like to address  
25 the issue of the Daly report which Mr. Blunt co-authored and I

1 understand that Boeing may have an objection to that.

2 MR. TILDEN: We do, Your Honor, object to that line of  
3 questioning at this time as beyond the scope. We asked Mr.  
4 Blunt no questions about --

5 THE COURT: Is this witness going to be available to  
6 be recalled in the defense case?

7 MR. O'LOUGHLIN: I believe he may, Your Honor. They  
8 asked about his employment at Leo Daly. They asked about his  
9 knowledge about Boeing waste. They asked questions about the  
10 permitting approval process.

11 THE COURT: I believe it's sufficiently close to the  
12 direct, so the objection will be overruled.

13 MR. O'LOUGHLIN: Thank you, Your Honor.

14 Q (By Mr. O'Loughlin) Plaintiff's Exhibit No. 43. I believe  
15 it's been pre-admitted. It's the Daly report. May I approach  
16 to help?

17 MR. TILDEN: May I inquire, Your Honor, will leading  
18 questions be permitted during this portion of the insurers'  
19 exam.

20 THE COURT: It strikes me that it is within the scope  
21 and, therefore, leading questions would be permitted, yes.

22 MR. O'LOUGHLIN: I believe Plaintiff's Exhibit 43 has  
23 been pre-admitted.

24 Q (By Mr. O'Loughlin) Do you have a copy of that Daly report  
25 in front of you, Mr. Blunt?

1 A Yes.

2 Q I believe we have in front of the jury a blowup of the  
3 first page of that Daly report. I understand that in 1957, Mr.  
4 Blunt, you were employed with Daly & Associates, architect and  
5 engineers, here in Seattle, is that correct?

6 A Yes.

7 Q And in fact, Daly & Associates were retained by the Boeing  
8 Company to prepare this particular report on concentrated waste  
9 disposal, is that correct?

10 A True.

11 Q And you were a co-author of this particular report with Mr.  
12 Len Clarke?

13 A Yes, he also worked for Leo Daly.

14 Q Thank you. Now, I understand that you and Mr. Clarke spent  
15 a couple of months or thereabouts on the work on this major  
16 project?

17 A I would say we spent a couple of months in the Boeing  
18 plant.

19 Q And just turning to the table of contents there, Mr. Blunt,  
20 it's about the fourth page, and I believe there is a blowup in  
21 front of the jury. Just to briefly identify the nature of this  
22 report, could you explain what the purpose was for studying  
23 this concentrated waste disposal, if you recall? Was it to  
24 propose alternatives to the Boeing Company?

25 A Well, the firm of Leo Daly negotiated a services contract

1 with them to do as you said, study the disposal of concentrated  
2 waste.

3 Q And this table of contents that's in front of the jury  
4 reflects an authorization which referred to Boeing's  
5 authorizing Daly & Associates to proceed on this particular  
6 project, is that correct?

7 A Must have. They talk about scope of work, et cetera, job  
8 number.

9 Q And the existing conditions on this particular report  
10 reflected your efforts to take an extensive inventory of the  
11 scope and nature of Boeing's toxic wastes which were being  
12 generated at the time, is that correct?

13 A We did get into process areas and things like that.

14 Q And just to further outline the nature of the report, as  
15 reflected in Part C and D on the table of contents, you  
16 identified requirements that Boeing had with respect to their  
17 disposal needs and evaluated -- considered disposal  
18 alternatives, isn't that correct?

19 A Mm-hmm, yes.

20 Q And finally, you completed with the discussion and  
21 consideration and Daly & Associates made specific  
22 recommendations to the Boeing Company with regard to its  
23 disposal of waste, isn't that correct?

24 A We did. If you'll also recognize that we quite strongly  
25 emphasized cost effectiveness rather than other things.

1 Q Why was that?

2 A That was the only important consideration at the time. The  
3 problem of environmental improvement or assessment just wasn't  
4 a part of the statutes as it is now.

5 Q The Boeing Company was interested in -- in fact, you  
6 evaluated the cost of these alternative disposal methods, isn't  
7 that correct?

8 A We did, yes.

9 Q I would like to turn to page two, if you would, Mr. Blunt.  
10 It's two pages later. Page two is identified as Part B,  
11 existing conditions. Do you have that section of the report  
12 there? It's numbered two at the bottom of the page, I believe.

13 A Yes. Part B, existing conditions in the upper right?

14 Q Yes, sir. We're on the right page. Now, with respect to  
15 the first paragraph isn't it correct that Daly reported to the  
16 Boeing Company that even at low concentrations Boeing's  
17 concentrated wastes are extremely toxic? Actually that's the  
18 first line of the second paragraph.

19 A As stated here.

20 Q Is that correct?

21 A True.

22 Q Can you give us an example of what you meant or what Daly &  
23 Associates meant when they say even at low concentrations  
24 Boeing's wastes are extremely toxic? Can you give us and  
25 example?

1 A Well, heavy metals are just deadly to marine life, toxic to  
2 most vertebrates and invertebrates. Toxic at very low  
3 concentrations, extremely low. Probably if you think of  
4 Seattle water and it's chlorinated and you can adjust it, the  
5 same concentration of heavy metals in the Seattle water would  
6 be toxic to vertebrates and invertebrates. It's very toxic.

7 Q Now, in the second line of that second paragraph it also  
8 indicates that these concentrated industrial wastes are  
9 destructive to collecting equipment and sewers. Can you  
10 explain to us what that means?

11 A Well, they're acidic mainly, even if they are alkaline.  
12 Acidic compounds will erode and corrode and destroy a sewer.  
13 They'll dissolve it. Alkaline compounds, of course, will build  
14 up coatings on sewers. Sewers, if they're concrete, are  
15 alkaline in their normal state.

16 Q Now, the second full sentence in the second paragraph  
17 reads, "They are also for the most part not reusable or easily  
18 reclaimable." Can you explain to us what that means?

19 A Well, everybody seems to feel that the industrial waste  
20 treatment and reclamation is feasible and simply feasible and  
21 no difficulty at all, it's not true, and particularly when  
22 you're talking to your client in terms of what is a cost  
23 effective way to go. There is not a cheap, convenient, simple,  
24 direct way. Any child can operate, start an industrial waste  
25 collection and treatment disposal; it's been sold as that --

1 Q Would it also -- I'm sorry.

2 A It's probably been sold as that, but that's not true.

3 Q Would that also be true as to Mr. Nieuwenhuis and Western  
4 Processing, that he, too, encountered the same problems, that  
5 is, he could not economically easily reclaim this concentrated  
6 waste that the Boeing Company sent?

7 A Well, I hate to comment on John. He was very successful.  
8 But, yeah, I would say that statement would apply to John  
9 Nieuwenhuis if he were going to retreat and recover,  
10 absolutely.

11 Q Now, the next sentence refers to chemical activity or a  
12 finality. Is it correct that that reference means that some  
13 toxic wastes, when combined with other toxic wastes, create  
14 even more toxic waste?

15 A True. Not only that, the corrosive nature of one kind of  
16 solution, when combined with another, can increase the  
17 corrosiveness of either one or both.

18 You know, you may not be able to get by with the  
19 storage tank that you thought you could. Uncombined you can  
20 get by. Say, an untreated steel storage tank would be adequate  
21 for untreated waste. Combine them and it will increase the  
22 corrosive activity and you will need a lined or different kind  
23 of tank.

24 Q That sentence further refers, Mr. Blunt, to the fact that  
25 this chemical activity requires special and expensive storage

1 and pumping equipment?

2 A It does. If you're going to handle industrial waste, you'd  
3 better have chemical pumps, piping, certainly you've got to pay  
4 attention to how you're going to tank your materials.

5 Q That sentence goes on to suggest, I believe, that it  
6 further requires excellent supervision of waste treatment.  
7 Does that refer to the quality of personnel?

8 A No. We were trying to tell them that you've got a great  
9 manufacturing organization, but somebody should eventually be  
10 put in a position to discuss with people in manufacturing and  
11 assembling and so forth, that this is a problem down in our  
12 area, and can we change it slightly. You see, you're impacting  
13 quality control and everything. So we've seen it attempted to  
14 be worked in many cases. It just seems to be that the person  
15 in charge of industrial waste control has to have a voice and  
16 some authority higher up. Someone has to listen to him.

17 Q How did that answer or how does that characterization apply  
18 to the Boeing Company?

19 A I don't think if I talked all day I could characterize the  
20 Boeing Company. They're huge and they have problems in  
21 operations that no one else does. They have subassemblers and  
22 subcontractors who -- into operations that really no one else  
23 does in this area. They're rather unique. Now, how they do  
24 their operations, I can't say. They're quite successful.

25 Q Is it true, Mr. Blunt, that after your work on this project



1 you understood that the Boeing Company generated large amounts  
2 of various types of these toxic chemicals wastes?

3 A Yes. Once we got back into the manufacturing areas, why,  
4 you get an appreciation for the picture. They have a huge  
5 amount of waste, they have volumes that you normally won't see  
6 anywhere else.

7 Q Incidentally, did you understand that at the time of this  
8 report, I guess I'm referring to the last paragraph on page two  
9 there, there is a reference to Monsanto Chemical Company and  
10 the barging of waste out to the Straits of Juan de Fuca?

11 A Yes.

12 Q Do you see that reference?

13 A Yes.

14 Q Did you understand that that's how Boeing was disposing of  
15 much of their concentrated wastes as of the date of this report  
16 in 1957?

17 A No. I wasn't quite aware of the extent of it until I went  
18 back with the Pollution Control Commission. This was a fairly  
19 huge operation and more than one firm contributed waste. What  
20 they do is put the waste in a drum, put it on a barge, run up  
21 the Sound to a place, push it overboard, roll it overboard,  
22 push it with a cat, something like that. There are a lot of  
23 drums of material up there, still there.

24 Q Did you understand that the Monsanto company, and I believe  
25 there is a discussion on page three, the next page -- excuse

1 me; it's under paragraph number 2 on page three.

2 A Yes.

3 Q And it's the second paragraph. There's a reference to  
4 Monsanto Chemical Company and the suggestion that they might  
5 not be available for disposal of Boeing's concentrated or  
6 industrial waste.

7 Did you understand that it was proposed at this time  
8 that that barging alternative might not be available to the  
9 Boeing Company, hence, their interest in your report?

10 A Well, it had a limited life because it wasn't working out  
11 too well. The requirements became greater and greater to go  
12 further and further up the Sound, up the Sound and then out  
13 before you began to discharge.

14 Of course, it got more expensive. You see the barge  
15 sat there while it was filled up at the plant and then it had  
16 to be taken out and had to be dumped and had to be back in  
17 place so that you could use it on the first day of work and  
18 that got to be more and more difficult, but requirements got to  
19 be more and more difficult, too.

20 You couldn't go out off of Shilshole and open that  
21 valve and begin to dump. It wasn't long before you had to go  
22 clear up by Port Townsend.

23 Q Isn't it true, Mr. Blunt, that Boeing was not disposing of  
24 waste at Queen City Farms when you first began work on this  
25 project?

1 A Oh, I think that they were. I know that a lot of haulers  
2 were going out to Queen City Farms who were small for hire  
3 people. I call them septic tank pumpers, that is their main  
4 business, and when they had an industrial waste load they would  
5 go out to Queen City Farms.

6 Q Was it your understanding that in 1957 Boeing was disposing  
7 of waste with the septic tank pumpers, is that the correct  
8 term?

9 A Well, these people could be called any hour of the day or  
10 night and would appear and would haul for anybody. I'm sure  
11 they did.

12 Q For the Boeing Company?

13 A The Boeing Company, yes. And not only the Boeing Company,  
14 many other companies, too.

15 Q Did that create problems for the PCC?

16 A Oh, these people had -- they had no sense at all, they  
17 would dump the waste wherever they wanted to and they were  
18 famous for starting home about six o'clock and get on a stretch  
19 of Maple Valley Highway and open the valve. It'd be  
20 surprising, they got home and they didn't have any waste  
21 disposal fees to pay. They were known for it, they were  
22 incredible, unregulated and outlaw as could be.

23 Q And that's why the Pollution Control Commission in the late  
24 '50s and early '60s was very interested in a waste reclamation  
25 facility so that they could eliminate these disposals to land,

1 to streams in the area?

2 A That's right. Even before I came in '53 the Pollution  
3 Control Commission was more than willing to take a look at some  
4 proposal that would result in an operation to recover waste.

5 Q Could you please turn to page five of the report, Mr.  
6 Blunt? I'm looking at the middle of page five, where it  
7 reflects a total amount of 415 thousand gallons per year. My  
8 question is it is true, is it not, that that total figure, 415  
9 thousand gallons, reflects the average quantities of toxic  
10 chemical waste that Boeing was disposing in this time period?

11 A I think you could say it because there is no way that you  
12 could incorporate any of the industrial chemicals in the  
13 finished product, it just cannot be, and once it becomes  
14 contaminated, they must change it; why, it normally was sent  
15 down the sewer.

16 Q Would you please turn to page six, Mr. Blunt, the bottom of  
17 page six.

18 A Yes.

19 Q There is a discussion about the Duwamish River under  
20 existing conditions. My question is, as reflected near the  
21 bottom of the page it is true, is it not, that at that time  
22 period the fisheries department of the State of Washington  
23 became concerned about toxic waste going into the Duwamish  
24 River?

25 A Yes. And if you also consider that the toxicity was

1 probably due to sewage discharges that used up oxygen and you  
2 had an ODO condition in the river, trapping fish in those  
3 areas; yes, it was.

4 Q I'm moving ahead to page eight, if you would, sir, page  
5 eight under Part C, requirements. Do you have that page?

6 A Page eight.

7 Q Page eight at the bottom, Mr. Blunt. Up at the top right  
8 it says Part C, requirements.

9 A Yes.

10 Q Do you have that page? Now, in paragraph one there it  
11 states, "It is required to determine the most economical method  
12 for satisfactory disposal of the concentrated industrial waste  
13 described herein, from all Boeing airplane companies, Seattle  
14 area plants, including plant one and two and Renton plant."

15 That was the first request that the Boeing Company  
16 made of the Daly company, was it not, to determine an  
17 economical satisfactory disposal of these wastes?

18 A I think so, yes. I don't have that scope of the work, but  
19 that very well describes what we did.

20 Q And I believe the scope of work simply is not attached, but  
21 it is referenced in the report. Could you please turn to page  
22 11, please, Mr. Blunt?

23 A Page 11, Part D in the upper right?

24 Q Yes, sir. Now, this page reflects, does it not, that  
25 Boeing wanted two things from the Daly company. They wanted,

1 number one, an immediate inexpensive method of disposal and,  
2 number two, Boeing also wanted a recommendation for the most  
3 economical long-term method of disposal, is that correct?

4 A The way I read paragraph one, yes.

5 Q Would you please turn to page 12, please. I would like to  
6 call your attention on page 12, Mr. Blunt, to paragraph number  
7 three, and under this section of the report different disposal  
8 methods are being evaluated, is that correct?

9 A Yes, they call for lagooning. In other words, ponding all  
10 the waste together in one area so you can control it.

11 Q Okay. And do you recall that Boeing specifically asked  
12 Daly to address the appropriateness of this disposal of  
13 concentrated waste to a lagoon or pond?

14 A No, I think that we wrote this as we saw best.

15 Q Now, turning to the right-hand side of the column, this is  
16 I believe in front of the jury, there is a discussion on the  
17 left-hand side of number three, transport to a lagoon, and  
18 comments on the right-hand column of the page?

19 A Mm-hmm.

20 Q Is that correct?

21 A Yes.

22 Q Now, the first sentence under lagoon indicates that the  
23 method is widely used by industries. However, "acid chromates  
24 could not be lagooned without first furnishing definite proof  
25 to the Pollution Control Commission that ground and surface

1 waters would not become contaminated as the result of the  
2 wastes leaching or overflowing from the lagoon." That was your  
3 understanding of the requirements imposed by the PCC in 1957?

4 A Yes, it was.

5 Q Okay. The next sentence says that such proof would require  
6 geological and hydrological study. Is that in order to insure  
7 that there is no leaching of toxic waste into the ground and  
8 ground water?

9 A Proper hydrological and geological study would eliminate  
10 the possibilities they're talking about in the first of  
11 leaching and direct flow to the ground, to the soil.

12 Q Now, turning to the bottom of that page, on the right-hand  
13 column still, there is a discussion about hexavalent chrome,  
14 and it says adsorption by the soil -- I'm not going to attempt  
15 to quote it because I'm jumping in the middle of the sentence,  
16 but it refers, does it not, to the fact that the hexavalent  
17 chrome can be widely spread by ground water movement?

18 A Yes, it can.

19 Q And why is that such a concern in 1957?

20 A Well, hexavalent chrome is a very toxic form of chrome.  
21 You have a trivalent chrome which is less toxic, but hexavalent  
22 chrome is a very powerful acid.

23 Q Okay.

24 A And many people think of if I dispose of it in this area  
25 and it trickles down through the gravel, it will be very fine.

1 It won't. Gravel has no way to stop or impede or to chemically  
2 react with chrome, and particularly hexavalent, so it will  
3 flush on through, it may take years, but it will flush on  
4 through.

5 Q So the risk posed by Boeing's disposal of hexavalent chrome  
6 into a lagoon is that it could be widely spread by ground water  
7 movement as reflected by this report, isn't that correct?

8 A It could be, yes.

9 Q Would you please turn to page 13, Mr. Blunt. Now, the next  
10 alternative discussed by Daly is discussed at the paragraph  
11 four on the left-hand side of this page and that is the  
12 discharge of concentrated industrial waste to a leaching pit to  
13 be located on Boeing's property, is that correct?

14 A Yeah, that was one of the alternatives we proposed, yes.

15 Q On the right-hand side of the report there are comments on  
16 this alternative as well. The second sentence there indicates  
17 that these pits should not be used for oil disposal. Why is  
18 that?

19 A Well, oil will attract itself to and coat soil particles  
20 and you may find that it stops liquid flow through soil  
21 particles, strata, but it also may do the exact opposite, it  
22 may open up soil strata to increase flow.

23 Normally it coats soil and fills in the interstitial  
24 spaces, which are between the grains of soil, and it does a  
25 sealing job more than promote flow.



1           So you can't do anything with oil, industrial waste,  
2 except incinerate it. It can't be treated. We looked at  
3 everything in the commission as treat it to that state which we  
4 will never have any further or difficult problems with it  
5 again.

6 Q   Now, at the bottom of that page there is a reference to the  
7 Pollution Control Commission agreeing that such leaching pits  
8 should be constructed along the Duwamish River as far  
9 downstream as possible. Why was that proposed?

10 A   We wanted to get into the area with the greatest tidal flow  
11 and there is a huge amount of different kinds of soil along the  
12 Duwamish, it's been dredged and filled and excavated and there  
13 is all kind of material there, some of it native and some of it  
14 has been imported by barge and so forth.

15           But we were going to look for an area where the soil  
16 would be of a particular type where -- in the tidal cycle the  
17 ground water flowing into the river tends to rise with the  
18 incoming tide and tends to drop and so you have an increase in  
19 ground water flow when the tidal flow drops; you have a  
20 decrease or zero ground water flow in the river when the tidal  
21 flow rises.

22           And you can see in an area with a 10-foot tidal flow  
23 and you're speaking of a half a mile back to where this  
24 influence feeds it, you have a huge disposal area, because  
25 eventually anything you place in this sump will find its way to

1 the river, but it will have been contacted and will be  
2 incorporated into the ground water, which is half salt, by the  
3 way, so much, that you're not going to end up having toxic  
4 effects.

5 Now, we wanted two things. We wanted the benefit of  
6 the salt water, which is pushed back in the ground water and  
7 flows back out in a net manner and does act upon industrial  
8 waste, plus we wanted the amount of water that you could expect  
9 from ground water flow that you would measure and where it  
10 comes into the river, how it fans out and comes into the river.

11 Q Okay. Could you please turn to the page 93 of the report,  
12 the preliminary cost estimate at the conclusion of the report,  
13 Mr. Blunt?

14 A Mm-hmm.

15 Q Some of the page numbers may be difficult to read. It's  
16 method three, preliminary cost estimate.

17 A Okay. All waste to a remote lagoon.

18 Q Yes, sir. You compared cost estimates for the various  
19 alternatives that you evaluated for the Boeing Company  
20 generally, is that correct?

21 A Yes.

22 Q Except with respect to this all waste to a remote lagoon,  
23 you did not prepare a cost estimate, is that correct?

24 A Because we didn't really know where -- the particular  
25 uniqueness we needed in the area as far as soil strata, to go

1 where it existed. We weren't quite sure where we could find  
2 it. We were quite sure where we could find the area along the  
3 Duwamish, as an example. This is a little bit different.

4           You were going to take a hundred thousands of gallons  
5 of waste a year and essentially retain them and keep all  
6 surface drainage away from them and keep the rate of  
7 infiltration to the bottom and sides to an extremely low value  
8 and then when your first pond got full, you built a second one.

9           But we didn't know where. It was going to take a lot  
10 of land and we didn't know where this kind of land was, even  
11 though we had done a lot of work, and so we didn't bother to  
12 cost it out because it was too indefinite.

13 Q   The second sentence on this page -- you indicate in the  
14 first sentence no cost estimate prepared. The second sentence  
15 reads, "This method is not considered feasible because of the  
16 risk of contamination of ground water."

17           That's consistent with the comments and evaluations  
18 made earlier in the report, isn't that correct?

19 A   Well, as you treat bigger and bigger areas for -- to  
20 eliminate porosity you get less and less excellent results. We  
21 knew as we began to get bigger in areas, more numerous in  
22 lagoons, pretty soon you're going to find the one that won't  
23 leak and have to be abandoned. That means you have to have  
24 another one take care of it.

25 Q   And this report further reflects that if the method of

1 lagooning to a pond were desired, a definite site must be  
2 selected and extensive studies must be conducted in order to  
3 insure that there is no harmful contamination of ground water,  
4 isn't that correct?

5 A That's right. You would need very extensive studies.

6 Q Now, isn't it also correct that the long-term  
7 recommendation in this Daly report to the Boeing Company was  
8 that they treat their waste at a treatment facility?

9 A That's one of the possibilities that we developed for them.

10 Q And in fact that was the recommendation for long-term  
11 disposal of waste?

12 A Yeah, we could see the short-term possibilities of the  
13 disposal along the Duwamish. Certainly there is a short-term  
14 possibility for waste in a remote lagoon. And by dilution,  
15 diluted flow, control of flow to a sewer system you're limited  
16 to very small quantities, normally rinse water. I imagine that  
17 our strongest possibility was a recovery neutralization  
18 facility.

19 Q Did Boeing tell you in 1957 that they had constructed a  
20 waste treatment facility in Wichita prior to --

21 A I never heard of it, no. They did a lot of things that  
22 were not done here because it's in an entirely different area,  
23 and I know that they had hired Wilson & Company, engineers out  
24 of Salinas, Kansas, because I had seen some of their reports, I  
25 was quite interested in them, but, no, they didn't tell me what

1 kind of facilities they had, that I remember. I would be very  
2 interested, of course.

3 Q But Boeing didn't provide that information to you?

4 A Not to me. They might have -- you know, we had a chief  
5 engineer, he might have known about it; we had vice-presidents,  
6 they might have known about it. I don't recall anything in  
7 particular about it.

8 Q Okay.

9 A There weren't many industrial recovery neutralization  
10 disposal facilities in the whole county. It would have been  
11 very interesting.

12 Q Did you understand that the Boeing Company ignored the  
13 recommendation and warnings of the Daly company by sending most  
14 of its toxic chemical waste to Queen City Farms for disposal to  
15 the lagoons or pits at that site after this report?

16 A Did I know about it?

17 Q Did you learn that to be true?

18 A Oh, when I came back with the Pollution Control Commission  
19 I was amazed at the gallons they had going out there, yes.

20 Q Now, changing subjects for you on -- I would like to --  
21 well, actually, shortly after you prepared this report for the  
22 Boeing Company you approached the owners of Queen City Farms  
23 and made a proposal to them, did you not?

24 A As Leo Daly, yes.

25 Q Leo Daly made a proposal to the owners of Queen City Farms,

1 recommending that extensive treatment and processing processes  
2 be implemented at Queen City Farms in order to prevent  
3 pollution of ground water, isn't that correct?

4 A Well, he had an area out there that was blessed with lots  
5 of the soil types we looked for. And he didn't have any  
6 encroaching neighbors or land use. He had a good -- really  
7 good site if you could have done some things with it, and we,  
8 as Leo Daly, approached him on the basis of providing a certain  
9 kind of excavated and compacted and sealed ponds for  
10 neutralization, for containment, for retention, for recovery,  
11 if need be. By "them" I mean Queen City Farms, yes.

12 Q And the owners of Queen City Farms flat out rejected your  
13 proposal for any sort of process or study at Queen City Farms?

14 A Well, we had a very expensive staged project for him, but  
15 he did turn it down.

16 Q Now, on your first visit to the Queen City Farms site, you  
17 formed the belief, did you not, Mr. Blunt --

18 MR. TILDEN: Excuse me, Your Honor. May I voir dire  
19 the witness?

20 THE COURT: Well, we don't know on what yet. We don't  
21 know what this question is.

22 MR. TILDEN: I'll be happy to wait for the conclusion  
23 of the question.

24 Q (By Mr. O'Loughlin) You went out to the Queen City Farms  
25 site several times in this time period?

1 A Leo Daly had a number of projects and proposals to various  
2 people on waste disposal and, of course, the waste disposal  
3 place in King County at that time in the late '50s, early '60s  
4 was Queen City Farms. He had been receiving waste for years.

5 He had a pond that people burnt excess solvent in and  
6 he had a pond that received nothing but organic waste from the  
7 dairies when they had a large amount of whey to get rid of. He  
8 had a disposal area for industrial waste. He had access and  
9 you wouldn't get stuck if you went out there in the winter,  
10 that sort of thing. He kind of established himself as a known  
11 -- this was a known operation that was going to go on in this  
12 manner.

13 Q When you went out to the Queen City Farms site, did you  
14 observe waste in the pits?

15 A Oh, not to a great amount. The area that received  
16 industrial waste tended to infiltrate rather fast, a lot of  
17 tire tracks and things like that, a lot of evidence of people  
18 pulling trucks out of there or trailers out of there without  
19 closing off the valves, you got a lot of stink. But I was kind  
20 of surprised that the industrial waste area was so small. It  
21 was an area that would infiltrate a lot.

22 Q When you say infiltrate a lot, the waste went into the  
23 soil?

24 A The waste disappeared in the soil in very short time and  
25 didn't leave you a big area, see.

1 Q The waste going into the pit infiltrated into the soil and  
2 ground water at Queen City Farms as you observed on your site  
3 visit, correct?

4 A Well, I had a strong presumption on the ground water  
5 contamination that resulted from it. After I got into it there  
6 were indications that large amounts of waste were going out  
7 there, because you could tell by the truck traffic out there  
8 every day simply by conferring with the King County Sheriff and  
9 the King County Road Department, plus your own observations,  
10 plus any of the people who might be out there for whatever  
11 reasons, forestry from the university or fisheries. They could  
12 tell you how many trucks they saw that day would proceed past  
13 at certain point. You could get a good idea. There was a lot.

14 Q Subsequently you joined -- you went back to the PCC after  
15 your employment at the Daly -- Leo Daly firm?

16 A After I left Leo Daly I went to Stephens & Thompson.

17 Q Did you work for Boeing at that time?

18 A I worked on some of the Boeing missile bases.

19 Q For --

20 A As a consultant.

21 Q As a consultant for the Boeing Company. How long did you  
22 work as a consultant for the Boeing Company in that time  
23 period?

24 A Oh, a couple of years, I imagine. A little more.

25 Q This was before you went back to joining the PCC?



1 A Yes.

2 Q Was that immediately prior to your rejoining the PCC in  
3 about 1964?

4 A No, it must have been a couple of years before, I would  
5 say, a year and a half.

6 Q Now, when you were at the PCC you understood that the  
7 obligation of the Pollution Control Commission was to maintain  
8 and improve the water quality in the State of Washington,  
9 including both ground water and surface water, isn't that  
10 correct?

11 A Yes, part of the statute, I believe, that created the  
12 department.

13 Q And you understood, did you not, Mr. Blunt that any  
14 enforcement action taken by the PCC would be a decision of the  
15 director, the high level?

16 A Director or the pollution commissioners themselves.  
17 Sometimes enforcement went that high and sometimes enforcement  
18 was a directed letter from the director of the commission, Roy  
19 Harris.

20 Q So you didn't have any authority --

21 A No.

22 Q -- to shut Queen City Farms down, did you?

23 A No, I would had to have be in Olympia for that. That's  
24 handled that way.

25 Q I would like to change subjects, then, and move up to

1 Western Processing and talk a little bit about that.

2 Is it true, Mr. Blunt, that the main difference  
3 between Queen City Farms and Western Processing was that the  
4 plan at Western Processing was to reclaim waste and to protect  
5 the environment, that was the plan; whereas, as Queen City  
6 Farms that was not the plan, the plan was simply to dump the  
7 waste into the pits?

8 A I would say yes. Mr. Nieuwenhuis at Western Processing  
9 intended to recover a product that he could sell and did.

10 Q That's the paint that he --

11 A Yes, the zinc chromate and lead chromate. Queen City Farms  
12 did not have anything like that in mind that I could see.

13 Q It was clearly your preference at the time that ground  
14 water pollution be eliminated and that waste be reclaimed, that  
15 was a preference of the PCC in 1964?

16 A Yes, that's exactly what you were directed to do.

17 Q Now, if Boeing had come to you in 1964 and said, Mr. Blunt,  
18 here is a diagram of a waste treatment facility we designed in  
19 Wichita and we had built and called that to your attention,  
20 would you have said that's a better plant than Western  
21 Processing?

22 MR. TILDEN: Your Honor, we object to the form of the  
23 question. We object to the substance of the question. Mr.  
24 Blunt is here as a fact witness.

25 THE COURT: The objection is overruled. You may

1 answer.

2 Q (By Mr. O'Loughlin) Do you understand the question?

3 A You don't mind if I ask you to repeat that?

4 Q Not at all. It probably will be reworded differently, but  
5 I'll try. If in 1964, Mr. Blunt, the Boeing Company approached  
6 you on the PCC and said here's a waste treatment facility we  
7 designed in Wichita to treat and properly dispose of waste,  
8 would you have preferred that type of plan to land disposal?

9 A I don't know much about the Wichita operation, but, you  
10 see, John had a good basic idea, invited a lot of actual  
11 problems by not being aware of what kind of market he had out  
12 there or what kind of suppliers, but we were quite anxious to  
13 get somebody who would put something on the ground and begin an  
14 operation that would eliminate heavy metal toxicity in King,  
15 Pierce and Snohomish County.

16 Now, if somebody hands you a beautiful set of drawings  
17 and if he wants a comment, you might do it on a friendly basis,  
18 but if it's an as-built or something in Kansas, I think the  
19 director would tell you to, okay, be a nice guy, but don't  
20 spend over 40 minutes at it.

21 Now, did they want to build approximately the same  
22 thing here? Then -- you see, there is a waste treatment plant  
23 for Boeing down at Boeing Auburn and we were involved in that  
24 when it was the Boeing Army despot -- I mean the Auburn Army  
25 despot. That's the way we like to do all things.

1 But someone would had to have come in for a concrete  
2 proposal. Someone should have wanted some kind of action under  
3 our rules and regulations of review and approval, not just a  
4 set of plans, but, you know, I would always like to have seen  
5 that sort of thing and I wondered how it would work. I might  
6 have taken a long look at it, taken it home for a weekend.

7 Q Now, you understood that it was the responsibility of  
8 industry to select or to properly dispose of the waste. It  
9 wasn't the Pollution Control committee's responsibilities to  
10 insure that waste was properly disposed, is that correct?

11 A The thing you're talking about has been repeated to me a  
12 hundred times by assistant attorney generals who are members of  
13 the Pollution Control Commission and the Department of Ecology,  
14 he who generates the waste shall take care of it. It's your  
15 responsibility to start in a certain area and end in a certain  
16 area. And normally I try to do that.

17 Q Now, with regard to the location at Western Processing, you  
18 understood that that was in a low area of the Kent valley which  
19 was semi-flooded about every year, aren't you?

20 A I can tell you that the Kent valley was flooded, sometimes  
21 for a long period of time of year. One thing that amazed me is  
22 the Army would put a Nike base there when their troops were  
23 knee deep in water. There wasn't that good of a drainage  
24 system until the Department of Agriculture got some money and  
25 began to pump water into the Green.

1 Q There was a dam built, too, wasn't there?

2 A Howard Hansen Dam, yes, but the real control of local  
3 flooding was that Department of Agriculture drainage plan for  
4 the part of the Green valley which is on the west side of the  
5 river. Now, that part which is on the east side of the river  
6 or east of Milwaukee Railroad is a different drainage plan.

7 Q Now, the area you're talking about being flooded included  
8 specifically Western Processing?

9 A Yes, it did. This was not just minute flooding, this was  
10 thousands of square feet.

11 Q And could you tell the jury what you observed with regard  
12 to the quality of employees who worked at Western Processing,  
13 their technical abilities or skills?

14 A Oh, when I first talked to John, he had a bunch of casual  
15 labor and I felt they were pretty awful. They needed somebody  
16 who was much more of a boss than John was, and, yes, I guess he  
17 was very pleasant to them, but these people never knew whether  
18 they had the equipment in forward gear, reverse gear, they  
19 didn't care, they were careless, terrible.

20 Q Didn't the forklift driver have some problems out there?

21 A Oh, yeah. Not just one, but they seemed to be kind of  
22 epidemic. The forklift driver couldn't keep from running the  
23 forklift into this and that. I felt he had to fire those  
24 people to get some more. He was kind of defending them a  
25 little bit, but they were terrible. I wouldn't have trusted

1 them anywhere. They were pretty awful.

2 MR. O'LOUGHLIN: Thank you, Mr. Blunt. I don't have  
3 any further questions.

4 THE COURT: Redirect?

5 MR. TILDEN: Yes, sir, Your Honor. Pardon me; I  
6 forgot there is more than one of them.

7 THE COURT: Any non-repetitive cross-examination?

8 MR. SCHOEGGL: Certainly, Your Honor. I don't plan to  
9 ask any repetitive questions.

10 \* CROSS-EXAMINATION

11 \* BY MR. SCHOEGGL:

12 Q You have been asked quite enough, Mr. Blunt. I just wanted  
13 to ask you a few things about the PCC. When you went back to  
14 the PCC in 1964, can you tell me how many inspectors the PCC  
15 had to cover the northwestern Washington area?

16 A Well, they had -- I would say one. The only engineer they  
17 had -- field engineer was myself for Whatcom, Skagit, King and  
18 the Snohomish counties, and then I had the use of an inspector,  
19 two-thirds of the time.

20 Q You were the district engineer that essentially had to  
21 cover the entire western part of the state north of Tacoma  
22 approximately?

23 A Yeah, north of Pierce County, sure.

24 Q I see. Now, you were shown earlier, and we won't go over  
25 it again, but we were shown a permit that had some effluent

1 limits from the Boeing missile production center. Was it the  
2 PCC'S position at the time that you were there that if a  
3 company complied with a permit that was a guarantee that the  
4 company wasn't causing any pollution at all?

5 A I think the permit was established -- if you were within  
6 permit conditions, that whatever you discharged, you know, was  
7 all right. It was satisfactory.

8 Q It was all right from the Commission's point of view?

9 A Yes.

10 MR. SCHOEGGL: Now, could we have Exhibit 306, please?

11 THE CLERK: Plaintiff's 306?

12 MR. SCHOEGGL: Yes, plaintiff's 306.

13 THE CLERK: I don't have 306 up here.

14 THE COURT: If in the future counsel could be sure  
15 that the clerk has all the exhibits that counsel are going to  
16 come to with a witness, it would be helpful. It's difficult  
17 with these many, but to the extent you can do it.

18 MR. SCHOEGGL: I apologize, Your Honor. If we don't  
19 have it up there, I'll simply withdraw that request at this  
20 point and take it up with another witness.

21 Thank you, Mr. Blunt. I don't have any more  
22 questions.

23 THE COURT: Now, redirect.

24 \* REDIRECT EXAMINATION

25 \* BY MR. TILDEN:

1 Q Mr. Blunt, you've just told us that if a company was within  
2 permit conditions whatever they discharged was all right with  
3 the Pollution Control Commission. Do you know, sir, in the  
4 year and a half we discussed earlier, '64 to '65, whether the  
5 Boeing Company ever was without permit conditions or outside or  
6 whatever?

7 A I don't know of any. My usual operation with the Boeing  
8 Company was --

9 MR. SCHOEGGL: Excuse me, Your Honor. I object, Your  
10 Honor. If Mr. Blunt doesn't know -- he doesn't know the answer  
11 to the question.

12 MR. TILDEN: I have no objection. I believe he was  
13 finished with the answer to the question, although I'm --

14 THE COURT: Had you fully answered the question?

15 THE WITNESS: Well, permit conditions were satisfied  
16 by normally a monthly report. Boeing had very good technical  
17 people. They could prepare a monthly report and to what extent  
18 -- to a great extent to much more detail than we wanted. Now,  
19 take another company that does not have a technical staff, what  
20 did they do? Do they report what they know and can use some  
21 litmus paper? I don't know. As long as you were within -- a  
22 permit wasn't given away capriciously, you earned it, and when  
23 you had it nobody toyed with you or changed it, nobody.

24 Q Western Processing received permits?

25 A They did, I understand.



1 Q Surely. You were asked a handful of questions, sir, about  
2 the Wichita plant and whether or not you would like to have  
3 seen the drawings. Did anyone from Boeing Company or Wilson &  
4 Company ever discuss with you what the end result of the  
5 Wichita plant processing was?

6 A No, I can't recall they did.

7 Q Does chemical sludge refresh your recollection?

8 A That's an ordinary term of an ordinary element.

9 Q Do you know what would have happened to that sludge in  
10 Wichita?

11 MR. O'LOUGHLIN: Objection.

12 MR. SCHOEGGL: Lack of foundation.

13 THE COURT: Sustained at this point.

14 Q (By Mr. Tilden) You were asked some questions about Queen  
15 City Farms and I was writing quickly, Mr. Blunt, and I'm not  
16 sure I got it all down, but I believe you testified that it was  
17 "the" disposal site in King county in the late '50s; did I get  
18 that roughly right?

19 A It was "the" accepted waste collection treatment waste  
20 disposal and recovery not only for King County, but for anybody  
21 who wanted to come in the door.

22 Q Accepted by whom?

23 A By the Pollution Control Commission.

24 Q Can you tell the jury where this accepted site was located?

25 A Western Processing?

1 Q No, sir, Queen City Farms.

2 A Did I say that? Wait. Queen City was not an accepted  
3 recovery. Western Processing was. Now, am I all confused?

4 Q Let me back up and go back to Queen City Farms. I believe  
5 you told us earlier, Mr. Blunt, that it was "the" disposal site  
6 -- I don't believe I used the word "accepted" -- in King County  
7 in the late '50s.

8 A It was because Leo Daly sent some of his clients out there  
9 to dispose of waste, sure.

10 Q And do you recall, sir, whether or not the Pollution  
11 Control Commission actually encouraged businesses to take their  
12 waste to Queen City Farms?

13 MR. SCHOEGGL: Objection, lack of foundation. I don't  
14 believe Mr. Blunt worked for the Pollution Control Commission  
15 in Western Washington at that time.

16 THE COURT: You may establish a foundation.

17 Q (By Mr. Tilden) Surely. Yes or no, Mr. Blunt, do you  
18 recall --

19 A I would have to say, yes.

20 THE COURT: Just a moment. There is going to be a new  
21 question here. That's what he meant when he said yes or no, he  
22 meant to the next question.

23 Q (By Mr. Tilden) This lawyer stuff is very complex. Yes or  
24 no, Mr. Blunt.

25 A I would have to say yes.

1           THE COURT: It might be best to wait for the question  
2 first.

3           THE WITNESS: Oh.

4           MR. TILDEN: Your Honor, I appear to be on a roll.

5 Q    (By Mr. Tilden) What I want to know is this, Mr. Blunt,  
6 can you give me a yes or no answer to the question whether in  
7 the late '50s the Pollution Control Commission encouraged  
8 businesses to use the Queen City Farms site?

9           MR. SCHOEGGL: Objection, lack of foundation.

10          THE COURT: I think the first question should be  
11 whether he knows whether they did or not.

12          MR. TILDEN: That's the question I intended to ask. I  
13 apologize if it didn't come out right.

14 Q    (By Mr. Tilden) Do you know whether or not the Pollution  
15 Control Commission encouraged businesses to use Queen City  
16 Farms?

17 A    When I talked to a person who was on the staff of the  
18 Pollution Control Commission, I knew him quite well --

19 Q    Mr. Blunt, it has got to be yes or no. I told you this was  
20 tough.

21 A    Yes, I think, yes.

22 Q    How is it you know the answer is yes?

23 A    My friends and associates and former people I worked with  
24 told me so, plus --

25 Q    Do you know whether or not, yes or no, the Boeing Company

1 was aware of it?

2 MR. SCHOEGGL: Objection, Your Honor, it calls for  
3 hearsay.

4 MR. TILDEN: It was a yes or no. I just asked if he  
5 knew.

6 A I don't know if the company was or not, was or was not.

7 Q (By Mr. Tilden) Let's turn now to 1964, when you come back  
8 to the PCC. In 1964 were you encouraging businesses to use  
9 Queen City Farms?

10 A Yes, for the simple reason we found toxic and hazardous  
11 waste spread all over and we thought, well, we have time to get  
12 some breathing room here to get some development, to wind up  
13 with the problem in one place and we were trading a poor  
14 situation for a bad one. Wastes were spread all over the  
15 county by people that didn't care where it went.

16 Q Why did you like -- "you", the commission -- Queen City  
17 Farms better than the other available option?

18 A The other available option?

19 Q Sure, waste spread all over the county.

20 A Well, the first time it rains and you find out that that  
21 yellow stain out there in that field is now washing down in the  
22 stream and you've killed fish for 10 miles, you're not exactly  
23 happy, your boss isn't, neither is fishery, neither are the  
24 sportsmen and it didn't happen because of Queen City Farms. We  
25 had to do something and --

1 Q The commission viewed Queen City Farms as preferable to  
2 that alternative in 1964?

3 A Preferable to what was happening, sure did, and we did.

4 Q Do you know, sir, how long Boeing had been using Queen City  
5 Farms prior to 1964?

6 A I don't know. I think this report mentions it in '57 and  
7 perhaps that's where -- you know, people that were in that  
8 business then knew about it, they didn't have to learn about it  
9 from their client all the time.

10 Q You indicated in response to a question of Mr. O'Loughlin,  
11 sir, that Queen City Farms was blessed with a lot of the soil  
12 types we looked for. What did you mean by that?

13 A Soil, we could excavate and place and put a high degree of  
14 confidence that it would do the job it intended. It was  
15 structurally sound. It was impervious if you compacted it  
16 well. It could be graded to this slope or that slope without  
17 sliding.

18 Q What does job we intended mean? You said you were  
19 confident or hoped it would do the job you intended?

20 A When you come over to the site and it's all trees, you have  
21 to do some investigation to find out what you've got. Pretty  
22 soon you're going to push those trees and brush off and you're  
23 going to do something with what mother nature has left and  
24 you're going to use that soil in certain accepted ways.

25 Q Why was it good that the soil was impervious?

1 A Why was it good that it was impermeable?

2 Q I believe you said impervious, but if those words mean the  
3 same thing --

4 A We were looking for impermeability for the bottom sides of  
5 any ponds.

6 Q Could you tell the jury where the Queen City Farms site is  
7 located?

8 A Well, it's not too far off the road which runs from Maple  
9 Valley highway over to Issaquah.

10 Q Roughly how far is the Queen City Farms site from Elliott  
11 Bay or Puget Sound?

12 A Straight line?

13 Q Yes, sir.

14 A I would say six miles, straight line.

15 Q How far is the lower Duwamish from Elliott Bay?

16 A Lower Duwamish runs into Elliott Bay.

17 MR. TILDEN: I'd like to turn to the question of the  
18 Leo Daly report. Your Honor, will we be breaking now?

19 THE COURT: Three o'clock.

20 MR. TILDEN: Oh, good; we will be able to do all of  
21 this, I suspect. I have some other blowups of other papers.  
22 Exhibit 43.

23 Q (By Mr. Tilden) And a moment ago you had it in front of  
24 you. Is it still there, Mr. Blunt? Have you got it?

25 A You're on page 11 of Part B, okay.

1 Q Yes, sir, but I've got some preliminary questions first.  
2 First question, Mr. Blunt, did Leo Daly do this work for the  
3 Boeing Company for free?

4 A No, sir.

5 Q Did they charge us money?

6 A Yes, yes.

7 Q By your standards, Leo Daly's standards at the time was  
8 this a significant undertaking?

9 A Yes, it was one of the more important jobs in the office,  
10 yes.

11 Q Do you know or did the Boeing Company tell you why they  
12 wanted the report completed?

13 A No. I went to the plant, you know, with a definite  
14 intention of finding out some fact, something that was going to  
15 appear in our report. I really didn't develop a lot of  
16 dialogue with Boeing people. Now, we had a chief engineer, we  
17 had vice-presidents and they did, but I didn't.

18 Strangely enough, the industrial waste people should  
19 have been doing all the talking, but they weren't.

20 Q All right. I would like to turn to page 11.

21 MR. TILDEN: Your Honor, may I approach the easel?

22 THE COURT: Yes.

23 MR. TILDEN: I've got it, Jim.

24 Q (By Mr. Tilden) One of the pages that was discussed  
25 before, and I would like to go through this a little more

1 thoroughly. Perhaps that's unfair to our opponents. I would  
2 like to go through it some more, in any event.

3 Page 11, paragraph two at the bottom.

4 A Yes.

5 Q Indicates nine specific methods detailed below.

6 A Yes.

7 Q Which you considered.

8 A Yes.

9 Q First method was combine all concentrated acidic, alkaline,  
10 chromate and neutral solutions in a common holding tank and  
11 barge to sea. Now, barge to sea means what, Mr. Blunt?

12 A Means that you fill up a barge tank and when it's full or  
13 full as it is safe to transport it, you tie a tug to it and he  
14 goes up the Sound and at an agreed upon point dumping takes  
15 place, normally while the barge and tug are under way.

16 Q Where in the Sound -- where was the agreed upon point?

17 A I've forgotten where it was. We moved it a number of times  
18 because of effects and boater protests and so forth. But I  
19 would say up as far as Port Townsend before you begin wasting.

20 Q All right. That's across from Whidbey Island?

21 A Yes. It would be west of Whidbey Island, sure.

22 Q You indicated in 1957 that this was probably the most  
23 acceptable form of disposal to the state Pollution Control  
24 Commission?

25 A Was the most acceptable?



1 Q Yes, sir.

2 A That is, they had no facilities of their own to build and  
3 therefore -- well, can I say yes?

4 Q Yes, sir. Do you know, sir, after the Leo Daly study was  
5 concluded, is that what the Boeing Company did with its waste,  
6 barged it up off Whidbey Island and dumped it in the Sound?

7 A I'm not sure. The practice wasn't going on when I came  
8 back with the commission in '64 that I remember.

9 Q At that time we were at Queen City Farms?

10 A Yes.

11 Q Subsequent to Queen City Farms we went to Western  
12 Processing?

13 A Yes.

14 Q To your knowledge Boeing then did not from the time of the  
15 Daly report on dump waste off Whidbey Island in Puget Sound?

16 A I don't know from the time of the report on. At this time  
17 this was '57. You know it was in their hands by '57.

18 Q Yes, sir. Let's go to the next page, if you would, sir.  
19 Let me ask one more question about disposal in the Sound. Were  
20 you ever at a meeting of the Boeing people in which Boeing  
21 specifically rejected disposal in the Sound?

22 A No, not that I recall.

23 Q Next one, idea number two of the nine, same as one above,  
24 but waste to be neutralized before barging to sea.

25 Neutralized, does that mean mixing the acids and the alkalai?

1 A And adding water it takes -- brings the pH down to 7.5,  
2 6.5. Normally we call neutralization good enough if they get  
3 down to 6.5 or up to it or down to 7.5,

4 Q Does neutralizing take out the chrome?

5 A No, neutralizing, it will change the hexavalent to  
6 trivalent. It will precipitate a lot of it because it requires  
7 a very acid state to stay in solution and it complexes it, ties  
8 it up with different ions.

9 Q Does it take out zinc?

10 A Neutralize it? It won't neutralize it. Most heavy metals  
11 are very insoluble at neutral pH. If you draw the pH up or  
12 down, chromic acid, the pH is well down, you get a different  
13 solubility. You get more ions going into the solution.

14 Q Yes, sir, Mr. Blunt. My question isn't about solubility,  
15 it's about whether or not heavy metals are still in there?

16 A Heavy metals would precipitate out, you know, given enough  
17 time and enough chemical and a good enough job, they would  
18 precipitate out. But you would still have some in solution.  
19 That's what solubility is.

20 Q Those would end up being dumped in the Sound under proposal  
21 one or two, right?

22 A I think when -- when they dispose of it, they dispose of  
23 everything, any precipitated material, any sedimentary material,  
24 anything in a liquid base, all of that goes into the Sound.

25 Q Let's move to number three, if we could, transport all

1 concentrated waste to an area for lagooning or ponding. Lagoon  
2 to be adequately fenced against trespass or entry by livestock.

3 A You're on page 13?

4 Q Yes, sir, number three, this is the lagoon option.

5 A All right.

6 Q It says next to that this method is widely used by  
7 industry. However, acid chromates could not be lagooned  
8 without first furnishing definite proof to the Pollution  
9 Control Commission that ground and surface water would not  
10 become contaminated as a result of the wastes leaching or  
11 overflowing from the lagoons.

12 At the time in 1957, when you considered the lagoon  
13 option for the Boeing Company, sir, did you have in mind a  
14 specific location where the lagoons might be?

15 A No. We were looking at a fairly undeveloped area at that  
16 time.

17 Q Yes, sir. One possible location, two sentences further on,  
18 is a zoned industrial area, such as the lower Duwamish. Have I  
19 got that right?

20 A A zoned industrial -- we would prefer it in that kind of  
21 area, sure.

22 Q The lower Duwamish is how far from the water in the Sound;  
23 it's right there?

24 A Remember, the Sound backs up into the Duwamish at low flow  
25 and high tide, a thousand feet, I would say.

1 Q And the lower Duwamish, I take it, is on the Duwamish  
2 River?

3 A Not only that, it's salt water more than it's anything at  
4 certain times.

5 Q There are fish in the lower Duwamish?

6 A There are fish in the lower Duwamish. I've talked to  
7 Metro's biologist and he says that there are fish in the Sound  
8 very month out of the year, every day of the year and that the  
9 only time they leave, and they all come back, because he's  
10 tagged and studied them, is when the flow is low in the river.  
11 There is no dissolved oxygen that comes in. The natural low  
12 dissolved oxygen in the Sound pushes back up in there and the  
13 fish are just driven out by the septic condition. And they  
14 come back as soon as the river flow gets a little stronger and  
15 the tidal flow gets a little less and they do not permanently  
16 leave that area.

17 Q Would it be fair to describe the method of disposal at  
18 Queen City Farms as lagooning?

19 A It would if it didn't disappear so quick into the ground,  
20 it just infiltrated beautifully and that's not lagooning.

21 Q All right. Number four, need a new board.

22 A Is that page --

23 Q 13, sir. Discharge all concentrated industrial wastes to  
24 subsurface leaching pits without pre-treatment. Leaching pits  
25 to be located on Boeing property.

1 A Yeah, or we were going to consider the use of an open  
2 shaft, it would do the same thing. We were going to introduce  
3 it into the top of the ground water, which is what a lagoon  
4 would do.

5 Q What does a leaching pit look like?

6 A Leaching pit?

7 Q Yes, sir.

8 A Four times the size of that desk.

9 Q Is it a hole in the ground?

10 A Yes, it is a hole in the ground, thank you. You want a big  
11 enough hole when you back that whole truck up there you don't  
12 overflow the -- a leaching site can be half an inch a day and  
13 it can be 40 feet a day and you pick it out and select it and  
14 build it how you want it to do.

15 Q How does a leaching pit differ from a lagoon, the previous  
16 recommendation?

17 A A leaching pit and a leaking lagoon ought to be about the  
18 same.

19 Q All right.

20 A The leaching pit would be a little bit more point  
21 discharge, but by the time you got outside of a certain area of  
22 influence, say two hundred feet, it would act the same.

23 Q Would you characterize -- is it fair to characterize the  
24 method of disposal at Queen City Farms as leaching pits?

25 A Yes. If I had to pick a name for it, that's a good one.

1 Q The description on the right part of these pages, whatever,  
2 the column comments indicates next to leaching pit, same as  
3 three, except that for chromate disposal this sump would have  
4 to be located back from the Duwamish River a minimum 150 to 200  
5 feet.

6 A Yes.

7 Q And Queen City Farms leaching pits were how far from the  
8 Duwamish River?

9 A From the Duwamish, miles, many miles. Straight line, five  
10 or six miles at least.

11 Q Let's move, if we could, sir, to page 23 and try and speed  
12 some of this -- have you found that, Mr. Blunt?

13 A Page --

14 Q 23; I'm sorry.

15 A Part F is it, Part F.

16 Q Yes, sir, recommendations.

17 A Is that Part F.

18 Q 23?

19 A Is that Part F.

20 Q Yes, sir. Have you got it?

21 A All right.

22 Q All right. The recommendations were based on three things,  
23 the insurers discussed, I believe, one and two, providing a  
24 temporary disposal means and a permanent long-term disposal.  
25 Number three says that all disposal means considered and those

1 recommended herein are in compliance with the requirements of  
2 the State of Washington Pollution Control Commission.

3 Was that Leo Daly's view at the time the report was  
4 prepared?

5 A That was, mm-hmm. We submitted drafts at various times to  
6 the commission.

7 Q Prior to the report's completion?

8 A Prior to final printing.

9 Q Do you recall the commission telling you that leaching pits  
10 were unsatisfactory?

11 A No, I don't.

12 Q The report later on says, I believe this is the second  
13 paragraph under number one, leaching pits are the only land  
14 disposal means which we recommend?

15 A Right, we recommended, if you consider that we were also  
16 going for the least cost.

17 Q Yes, sir.

18 A And considering that and all the other factors we  
19 recommended leaching pits.

20 Q Let's turn to Western Processing now, sir.

21 THE COURT: This is a good place probably for the  
22 afternoon break. Members of the jury, we will be at recess for  
23 15 minutes.

24 (Recess.)

25 THE COURT: Be seated, please. Mr. Tilden.

1 Q (By Mr. Tilden) Mr. Blunt, I just have a handful of final  
2 questions. We talked earlier and at some length about the  
3 Exhibit 31, the October 21, 1964 letter you wrote under Mr.  
4 Harris' signature to the Boeing Company. Is it fair to say,  
5 sir, that in 1964 you encouraged Boeing to move to Western  
6 Processing?

7 A We did, urged it.

8 Q Did you subsequently issue to Boeing permits requiring the  
9 use of approved facilities for the disposal of chemical sludge  
10 and concentrated chemical solutions?

11 A I'm sure their permit must have had that kind of condition  
12 in it because we finally had an approved site.

13 Q Was Western Processing --

14 A Western Processing. You're not allowed to name particular  
15 businesses but you can make your meaning very clear with the  
16 proper kind of phrasing and so forth and we wanted certain  
17 things to go to those approved recovery.

18 Q The intention of the phrase approved recovery site was  
19 Western Processing?

20 A I believe that would be it, yeah.

21 MR. TILDEN: No further questions. Thanks for coming  
22 down, sir.

23 THE COURT: Any recross?

24 MR. SCHOEGGL: Yes, Your Honor. If I could beg the  
25 Court's indulgence, it's not in the way of recross, but we have



1 found Exhibit 306 and I would like to show that to the witness.

2 THE COURT: You may reopen your cross.

3 MR. SCHOEGGL: Your Honor, I'm not aware whether that  
4 is a pre-admitted exhibit or not, but it is one of the  
5 plaintiff's exhibits and I would offer it at this time.

6 THE COURT: Any objection?

7 MR. TILDEN: No objection to our own exhibit.

8 THE COURT: 306 is admitted.

9 \* (Plaintiff's Exhibit No. 306 admitted.

10 \* RECROSS-EXAMINATION

11 \* BY MR. SCHOEGGL:

12 Q Mr. Blunt, my question about 306 is a very simple one. The  
13 jury will have it to read. It is an April 14th, 1965 memo,  
14 interoffice memo of the Pollution Control Commission, written  
15 by you.

16 Can you tell me, sir, if you would have written this  
17 in the ordinary course of your business working with the  
18 Pollution Control Commission?

19 A I would have.

20 MR. SCHOEGGL: Thank you. I have no more questions.

21 MR. TILDEN: May Mr. Blunt be excused, Your Honor?

22 THE COURT: May this witness be excused?

23 MR. SCHOEGGL: Yes, Your Honor.

24 THE COURT: Thank you. You're now excused.

25 MR. GORDON: Your Honor, we were going to play the

1 video tape of Mr. Nieuwenhuis. Can we get the television  
2 screen out here?

3 THE COURT: This will be Mr. Nieuwenhuis' testimony by  
4 deposition.

5 MR. GORDON: That is correct, Your Honor.

6 THE COURT: In the form of a video tape?

7 MR. GORDON: That is correct, Your Honor.

8 THE COURT: Now, members of the jury, this is the  
9 first deposition we've had in this case. A deposition is a  
10 session sometime before the trial where a person is questioned  
11 by first one side's lawyers and then ordinarily by the other  
12 side's lawyers under oath. Often this is held in a lawyer's  
13 office or some mutual place.

14 The witness is placed under the same oath that the  
15 witnesses take here in Court and the testimony is then recorded  
16 usually by a shorthand reporter and sometimes it's video taped.  
17 The rules permit a deposition to be used at trial in place of a  
18 witness' live testimony if the witness is sick or outside the  
19 jurisdiction or for some reason can't be here.

20 Also the deposition of a party to the case ordinarily  
21 can be read even if that party is here. In this instance, Mr.  
22 Nieuwenhuis isn't a party, but he is not able to be here for  
23 reasons beyond anybody's control. So you're about to hear his  
24 testimony by deposition and you should consider this and any  
25 other deposition testimony that is presented to you just as if

1 it were live testimony from the witness stand.

2 \* Garm Nieuwenhuis,

A WITNESS HEREIN, BEING  
FIRST DULY SWORN, TESTIFIED  
AS FOLLOWS BY DEPOSITION:

3  
4 Q I have tried to give you some of the documents that I  
5 wanted to discuss with you prior to the deposition. Did you  
6 get a chance to take a look at those?

7 A Yes, I looked at them over the weekend.

8 Q We will try to make this go speedier with that opportunity  
9 to take a look at the exhibits. In order to get some  
10 continuity in the deposition I would like to just go back and  
11 go through some of your personal background and just so  
12 everyone who watches this video knows who you are. Can you  
13 please state your formal name?

14 A My name is Garnt J. Nieuwenhuis. The first name is spelled  
15 G-a-r-m-t, middle initial J, last name N-i-e-u-w-e-n-h-u-i-s.

16 Q Where do you reside, sir?

17 A 3611 East Lake Sammamish Shorelane Southeast, Issaquah  
18 98027.

19 Q Without getting too personal, could you tell me how old you  
20 are, sir?

21 A How long I live there.

22 Q How old. I'm sorry. How old are you?

23 A I am 78 years old.

24 Q And what is the state of your health? Are you in good  
25 health, sir?

1 A I just had a heart attack and I am not sure how much longer  
2 I will live. Probably three months.

3 Q If at any time during the deposition today if you get tired  
4 or have any discomfort, you let me know, okay, and we'll stop  
5 it.

6 A I will.

7 Q Are you married, sir?

8 A Yes, I'm ready.

9 Q Are you married?

10 A Yes, I am married.

11 Q And how long have you been married, sir?

12 A 49 years.

13 Q And do you have any children?

14 A I have two children, a boy and a girl, man and a woman.

15 Q Do they reside in the area at this time?

16 A The girl resides in Rhode Island and the boy in Vancouver,  
17 Washington.

18 Q Mr. Nieuwenhuis, have you been a resident of the United  
19 States all your life?

20 A No. I came to the United States in 1953.

21 Q Could you just tell the folks that might watch this video  
22 tape a little bit about your personal background, where you  
23 were raised and how you got to the United States?

24 A I was raised in Amsterdam, Holland. Shortly after the  
25 Second World War the country turned socialistic, communistic, I

1 didn't like it and I left for the United States.

2 I had to wait two years before I could get to the  
3 United States, at that time there was a quota and you had to  
4 have a sponsor. My sponsor lived here in Seattle, so my first  
5 trip was to come to Seattle to see my sponsor.

6 I had 75 dollars when I landed in New York and the bus  
7 to Seattle took me 55 dollars, so I came here without anything.

8 My sponsor said, "I came here in 1911. I didn't have  
9 anything and I have made it. Now you do the same thing." So I  
10 came here on Wednesday and on Friday I was sweeping the floor  
11 at Fennergan Backery.

12 In 1957, by that time I had my wife over. She had  
13 saved 250 dollars, I borrowed 250 dollars and started Western  
14 Processing with 500 hundred dollars. At that time you still  
15 could do that.

16 Q Let me back up a little bit. Could you tell me the extent  
17 of your education, formal education?

18 A My formal education, I never went to high school. When I  
19 was eight years old I had to work in my father's backery. I  
20 still went to school, too, and I finished the lower grade  
21 school. When I came here I went to the University of  
22 Washington and had a couple of quarters in there. I had one  
23 year of business administration, I had three quarters of  
24 chemistry and some loose courses here and there.

25 Q When did you first arrive in the United States, Mr.

1 Nieuwenhuis?

2 A When did I?

3 Q Yes, when did you first arrive in the United States?

4 A On June 26, 1953.

5 Q And what had you done during the war years?

6 A I was in the underground, I will say that.

7 Q And Western Processing was what when you first started it?

8 A When I first started Western Processing I was drying animal  
9 blood. I had in Holland seen the drying of blood that was also  
10 here on the West Coast and when the man heard I was going to  
11 the West Coast of the United States he asked me to sell the  
12 blood.

13 So one of my first jobs here was selling blood. And I  
14 saw that the slaughterhouses were dumping the blood and  
15 throwing it away and it sounded crazy for me to ship it halfway  
16 around the world through the Panama Canal and up the West Coast  
17 in order to have plywood glue, so my first job was drying  
18 animal blood.

19 Q Now, given your background and your father's bakery  
20 business and the like, how in the world did you get into that  
21 kind of business?

22 A My sponsor was the president of U.S. Steel and there was an  
23 engineer there and we talked about drying animal blood, he  
24 said, "Oh, I can build that." I said, "Well, I know what the  
25 components are, but I don't know how to put it together." So

1 we also put up five hundred dollars and together we built a  
2 little drier on Fourth Avenue South in Seattle. That's how we  
3 got into the drying of animal blood.

4 Q Who was your sponsor?

5 A Clay Harris.

6 Q What was his position?

7 A He was the chief engineer at Northwest Steel -- U.S. Steel.

8 Q And was this location where you first started your business  
9 the same -- did you keep that same place or did you move it at  
10 some point?

11 A I kept it at the same place until I moved it to Kent.

12 Q And what occurred to make you move your plant to Kent?

13 A There were two things. In the first place it was a very  
14 limited place, I mean sizewise. It was just one little shed.  
15 And the second place is we were drying animal blood and if  
16 animal blood is more than 24 hours old it stinks and it stunk  
17 up the whole neighborhood.

18 So I needed a place where I could stink without  
19 bothering the people and I found a place in Kent with nobody  
20 around in the middle of the Kent valley and I thought it was a  
21 good location.

22 Q Now, at the time that you acquired the Kent facility did  
23 you desire to expand in your business or were you going to keep  
24 it the same as what you had been doing in Seattle?

25 A It was exactly the same as we were doing in Seattle. The

1 property was 13 acres. I said, well, so what. It is a little  
2 too big but --

3 Q Did you do any work with any of the local breweries?

4 A Yes, I did. After we had the blood driers going we thought  
5 that we could do a little better by drying, for instance,  
6 brewer's yeast, and I went to Rainier Brewing Company to sell  
7 them a dryer.

8 Rainier Brewing Company was at that time dumping their  
9 yeast in the shore and trying to get rid of it and we thought  
10 of it all as vitamin B 12. If it could be dried, it could be  
11 real nice money in it.

12 When I tried to sell the drier the brewery was not  
13 interested in it. They said, we are making beer, we don't want  
14 to be in the yeast business. Why don't you dry it? And I  
15 explained to him that I didn't have any money for that and then  
16 Rainier Brewing Company and Carling, at that time Heidelberg  
17 Brewing Company and Lucky Lager in Vancouver got together and  
18 with the three of them they underwrote a loan to the bank and I  
19 borrowed 20 thousand dollars from the bank and built a drier  
20 especially for drying brewer's yeast.

21 Q And what did you do with the yeast once it was dried?

22 A The nice part about it, I found a customer right away in  
23 Hamburg, Germany, and exported it all. Normally if you raise  
24 chickens it takes 10 weeks and if you give them two percent  
25 brewer's yeast you can take off ten days. That saves an



1 investment in chicken coops and in feed, so they were willing  
2 to pay quite a price for it. It is a vitamin supplement for  
3 chicken.

4 Q When you first started -- when did you first start at the  
5 Kent facility?

6 A In '61.

7 Q And when did you start the yeast process that you just  
8 described?

9 A I started that already on Fourth Avenue South in Seattle  
10 before that.

11 Q So once you started working at the Kent facility in '61  
12 what kind of processing did you have in operation?

13 A Only drying brewer's yeast and drying blood.

14 Q What was the original name of your company, Mr.  
15 Nieuwenhuis?

16 A Western Processing, not incorporated or company.

17 Q Did it later on become incorporated?

18 A It became incorporated in '61.

19 Q Now, can you describe for me the Kent facility when you  
20 purchased it, how big it was, what it had been used for in the  
21 past and that sort of thing?

22 A The facility in Kent is located at 7215 South 196th Street.  
23 The facility -- the property had been used for a Nike site. It  
24 was all fenced in. There were roads in, there were several  
25 buildings on it. There was, for instance, a whole building

1 with toilets in it that had a big septic tank and drain field,  
2 so it was already suitable for us.

3 Q When you say a Nike site, what do you mean by that?

4 A It had been used by the Washington State National Guard,  
5 which is part of the Army. The property was rented from Mrs.  
6 Carrie Costello under the condition that if the Army would give  
7 it back to her they would give it back to her in the same way  
8 as they had found it. Later on it didn't happen that way, but  
9 that was the condition.

10 Q Now, when you acquired the Kent site, did you get any  
11 zoning changes or any special permission from Kent to operate  
12 your plant?

13 A No, it was more or less the other way around. That  
14 facility had been idle there for about a year and the whole  
15 neighborhood kids were playing in the facility and raising hell  
16 there, breaking things down and so on, and every time the  
17 police had to go over there and they would like to have that  
18 facility cleaned up and put back into farm land.

19 Mrs. Costello got that property back as is. The  
20 condition was -- she paid a sum of money and she could leave  
21 the buildings there and the facilities there as is, but later  
22 on she said now I have so much money but I can't use that land  
23 any more for pasture because it is full of rock and sand and it  
24 leveled up and what do we do now. And, of course, it was just  
25 right for me. So I bought it from her, I think for nothing

1 down, just so much per month, and it took me 10 years or 15  
2 years to pay it off.

3 Q Did you have any contact with any City of Kent officials at  
4 the time that you purchased your site regarding your plans?

5 A Yes.

6 Q Would you tell me about that?

7 A Yes, there was a name -- a fellow by the name of John  
8 Anderson who was also with his seven brothers the owner of City  
9 Transfer in Kent. It is a company there that does a lot of  
10 transfer and they had about a hundred people.

11 Two of his brothers were on the city council and they  
12 had quite a clout in Kent. And John Anderson came out to my  
13 plant in Seattle and he saw it and he said, it doesn't stink to  
14 me at all. I think you would be an asset to come over here. I  
15 will take care of it and we will get you a permit. That's what  
16 he did.

17 Q And did you in fact get a permit from the City of Kent?

18 A I had the permit from the City of Kent to establish myself  
19 there. It was already zoned right, it was zoned M2, industrial  
20 trial manufacturing, not heavy industry.

21 Q Okay. Now, let me digress a little bit. Could you go to  
22 the next exhibit and can you identify that as some records from  
23 the City of Kent, sir?

24 A Yes.

25 Q And bearing numbers KC 602161 through 172?

1 A Yes, sir, I've seen it.

2 Q Can you tell me about this? Were you required from the  
3 City of Kent to get some kind of permission or conditional use  
4 to start your plant?

5 A Yes. If you have a plant that doesn't exactly fit in the  
6 description for this zoning, then they give you a conditional  
7 exception and they have all the regulations in there that  
8 belongs to this particular piece of property.

9 Q And to the best of your recollection did you receive such a  
10 permission?

11 A Yes, they were very gentle. July 1961; I see it.

12 Q Is that consistent with your recollection?

13 A Yes, sir. It was just before I got in there. I needed the  
14 permit first. See on June 14, order of the board of  
15 adjustment.

16 Q Now, would you go to the fourth page of this exhibit and I  
17 think its marked at the bottom KC 602164?

18 A Yes, sir, I have it.

19 Q Now, in the middle of that page, do you see where it says  
20 number two paragraph?

21 A Yes.

22 Q And b, subparagraph b, it says this plant will have its own  
23 sewage disposal plant, therefore, it will not be a burden on  
24 our present system and will not pollute the surrounding land or  
25 streams.

1           What kind of disposal plant did you have at that time?

2   A    It was a fairly large disposal site because the Army had  
3   about 100 people in the location and they had lots of spare  
4   time, took lots of showers, so they had an enormous amount of  
5   water. There was a larger septic tank. From there it went in  
6   a tremendous big drain field, came out of the drain field into  
7   a chlorination pit and from the chlorination pit there was an  
8   outflow to the creek.

9   Q    And what creek do you refer to there, sir?

10   A    The creek is generally called Mill Creek.

11   Q    And where was that in relationship to your property in  
12   Kent?

13   A    It runs along the property, but not close, and cuts through  
14   the property in the northwest corner.

15   Q    Subparagraph c of the same page says, "State pollution  
16   control board states the Western Processing Company meets all  
17   state pollution control regulations."

18   A    Say it once more.

19   Q    Yes. "State pollution control board states the the Western  
20   Processing Co., Inc., meets all state pollution control  
21   regulations."

22   A    Yes, sir.

23   Q    Can you tell me the identity of the people from the state  
24   pollution control board that you had any relationship with in  
25   these days?

1 A I didn't have any contact with the board itself, no, sir.  
2 Q With any of its representatives.  
3 A Lyman Nielson was at that time the only one in '60, '61.  
4 Q And we talked about him previously?  
5 A Yes, we did.  
6 Q Now who is Mr. Nielson, do you know who he is or was?  
7 A I met Nielson when he was the only inspector in the State  
8 of Washington and he was interested in my plant because he said  
9 we have a lot of hazardous waste laying around here and we  
10 don't know what to do it. We had a very close relationship  
11 together and if he had a problem he came to me; if I had a  
12 problem, I go to him.  
13 Q For whom did Mr. Nielson work?  
14 A For the Pollution Control Commission in Olympia.  
15 Q When did you first meet with him, after you had gone to  
16 Kent or when you were still in Seattle?  
17 A When I was still in Seattle.  
18 Q How long did you have any working relationship with Mr.  
19 Nielson?  
20 A From that time on, so let's say '57, '58 maybe, until '82.  
21 Q Was Mr. Nielson through that period of time always with the  
22 Pollution Control Commission?  
23 A With the Pollution Control Commission. That changed in  
24 '76, I think, to the Department of Ecology. When the EPA came  
25 into being, he worked as the liaison between EPA and the DOE.

1 Q DOE being?

2 A The Department of Ecology.

3 Q That's a state agency?

4 A The Department of Ecology is a state agency. The EPA is a  
5 federal agency.

6 Q Now, in the early years, say in '57 on, how frequently was  
7 your contact with Mr. Nielson?

8 A Well, from that time on it was strictly a business contact.  
9 There was no social get-togethers that happened after '81, '82.

10 Q Did -- how frequent would you see each other; can you give  
11 me some kind of idea?

12 A In the beginning maybe once a month, later on twice a  
13 month.

14 Q And what kind of a relationship did you have with Mr.  
15 Nielson?

16 A He was very -- I wouldn't say -- cooperative isn't the  
17 right word for it, encouraging.

18 Q Can you go to the next exhibit, please. Do you see an  
19 application for a waste discharge permit?

20 A Yes, sir, I have it.

21 Q And it is dated as of what?

22 A December the 1st, 1961.

23 Q And does it show a code at bottom of that exhibit,  
24 20012518?

25 A That's correct, sir.

1 Q And holding that for a minute, can you go to the next page,  
2 the next exhibit because I think they're related and can you  
3 identify that for me, please?

4 A Yes, sir.

5 Q And what is that?

6 A That is the actual permit. It is dated on December 12,  
7 1961.

8 Q Does it show a date of issue and a date of expiration?

9 A That's the expiration date. The date of issue is December  
10 12, 1961.

11 Q And does the bottom of that page show number 20012519?

12 A Yes, sir.

13 Q Now, go back to the first one, the application we were  
14 looking at.

15 A Yes, sir.

16 Q Did you in fact apply for a waste discharge permit from the  
17 Pollution Control Commission in early '61?

18 A Yes, sir, we did.

19 Q And did you attempt to tell them what you planned to do?

20 A Nothing in detail, sir, but they wanted to know how many  
21 gallons of water would go in that creek, so we gave them an  
22 estimate and we could be way wrong, but 300, 500 gallon gallons  
23 a day. We pulled the figure out of the air. We had no  
24 experience in that whatsoever, not at that time yet.

25 Q Now, looking at the application, Mr. Nieuwenhuis, it says



1 -- do you see in the middle where it says list your raw  
2 materials, including all chemicals used?

3 A Yes, sir.

4 Q It says sulfuric acid, 483,254 pounds. Where did you get  
5 that figure and what did you do with it?

6 A The sulfuric acid is bought from the Stauffer Chemical  
7 Company for the manufacturing of zinc sulfate, zinc and  
8 sulfuric acid. It's not a waste product.

9 Q How about cobalt chloride, 350 pounds, where would you get  
10 that?

11 A If I make zinc sulfate I take, let's say, to start out with  
12 good zinc. You put sulfuric acid on it and you want to put a  
13 catalyst on it so it goes a little further. And if you put  
14 cobalt chloride on it, the whole reaction goes a lot faster.  
15 That is purchased.

16 Q From whom was it purchased, if you can recall?

17 A Most likely Great Western. They handled it at that time.

18 Q How about ammonia, 225,000 pounds, what did you do with  
19 ammonia?

20 A By the time you have your zinc sulfate done and the pH was  
21 still a little bit off, we adjusted it at that time with  
22 ammonia and brought the pH to 6.5.

23 Q And when you say pH, for us uninitiated what is it?

24 A pH is the negative log of 10 to the minus 14. I know that.  
25 It is a means of expressing how much caustic or acid is in

1 there. Seven is neutral and the lower you go the more acid you  
2 go; the higher you go the more alkaline you go. And it goes  
3 increments of 10 times. So six -- five is 10 times as much as  
4 six, four is a hundred times as much as six and so on.

5 Q And this constant of pH, what use did you make of it in  
6 your operations?

7 A If you had the pH too low it will burn. If you spray it on  
8 a plant, the plant will die. You get it on your shirt you have  
9 a hole in your shirt. So you want to bring the pH so that the  
10 seven -- if you get it on your hand, you can stick your hands  
11 in it without burning your fingers and you do that with a  
12 little ammonia.

13 Q Now, would you go to the actual permit itself, sir,  
14 20012519.

15 A I have it, sir.

16 Q Now, this permit allowed you to discharge how many gallons  
17 per day to the drain ditch?

18 A 500 gallons per day.

19 Q And in paragraph one the term waste is defined. How is  
20 that defined?

21 A Waste was anything that could not be used in the form we  
22 had it. For instance, the cleaning off of the driers, washing  
23 out of the tank truck. At that time we didn't know what to do  
24 with it. It was a waste.

25 Q Now, the second paragraph says there is to be no direct

1 discharge to the drain ditch?

2 A Yes, sir.

3 Q How would you handle the waste waters?

4 A That went through the septic tank and the drain field and  
5 the chlorination pit and then the emphasis is on the direct  
6 discharge. There is no direct discharge bypassing the drainage  
7 system.

8 Q Now, paragraph five talks about chemical residues. Do you  
9 see where that --

10 A Yes.

11 Q And what does that state?

12 A That is for instance that it comes out of the drier. If it  
13 makes zinc sulfate in liquid form, we also get sand and dirt  
14 and so on in the bottom because it had to be water white and  
15 this mud was called residue.

16 Q And this paragraph states, "Chemical residues washed from  
17 the driers and chemical wastes from other processes must be  
18 disposed of on land in a manner which will assure protection of  
19 state waters." Did you comply with that condition?

20 A Yes, sir, I did.

21 Q And how would do you that?

22 A We had a large property, as I said, we dig a hole in the  
23 ground and we put it in there and covered it up.

24 Q Was this a liquid material at this point in time?

25 A No. I can't say a dry material, but it is in -- let's say

1 sludge.

2 Q And did you discuss this with any representatives of the  
3 state Pollution Control Commission?

4 A Oh, yes, they all knew how it was done. They knew where it  
5 was.

6 Q Now, paragraph six states chemical sludges or sludges  
7 containing oils or sludges having high or low pH values must be  
8 disposed of on land and not discharged into a state waterway?  
9 Did you comply with that provision during the term of this  
10 permit?

11 A Yes, I did.

12 Q And how did you do that, sir?

13 A The same way. Sludges containing oil are sludges for us.  
14 And the low and the high pH, we knew the numbers.

15 Q What does that mean?

16 A As I explained to you just a little while ago, I put  
17 ammonia with it until it had a pH of seven. And if it was on  
18 the alkaline side, I added sulfuric acid to it until I had a pH  
19 of seven. Then a lot of the heavy metals just drop out as a  
20 sludge, as a mud, and that is where most of them will land.

21 Q Now, this disposal on land, at some point in time did any  
22 state or federal agency say that we could no longer do that?

23 A Yes, sir, they did. In about '73, '74, if I recall it  
24 right, maybe a little later, then the Department of Ecology  
25 just changed it around and say, no, it may not be put on land

1 any more. For the first 10 years, at least, that is where you  
2 have to put it.

3 Q Go to the next exhibit, would you, please. Do you see  
4 that, a letter from Western Processing to Boeing?

5 A Yes, sir.

6 Q Dated as of what, sir?

7 A September 15th, 1964.

8 Q And does it show a stamp at the right corner 20011814?

9 A That's correct, sir.

10 Q And it's to the attention of whom?

11 A Walt Maybee.

12 Q And can you tell me who Mr. Maybee was?

13 A Mr. Maybee was in charge of plant facilities, disposal of  
14 liquids, handling of liquids.

15 Q For whom?

16 A At the Boeing Company.

17 Q Now, in the letter, in the first paragraph you state, "With  
18 reference to our letters of August 5 and August 24, 1964, we  
19 now propose to accept all your bulk waste chemicals, including  
20 insoluble oils and fuels, without charge to Boeing and without  
21 cost to Western Processing starting January 1st, 1965 or sooner  
22 when ready."

23 Had you had any -- had you been doing any work for  
24 Boeing or accept any of the Boeing materials prior to the date  
25 of this letter, September 15, 1964?

1 A Prior to 1964 we had purchased from the Boeing Company  
2 waste plating bath. I had actually no idea how much other  
3 waste they had. I know only that they had some other liquids  
4 that they also wanted to dispose of.

5 Q Now, when you say were purchasing, does that mean you would  
6 pay the Boeing Company for --

7 A I would pay the Boeing Company for that.

8 Q And what use did you make of such materials?

9 A That was a raw material for me for making fire retardant in  
10 wood.

11 Q Now, in this paragraph that I just read were you seeking to  
12 expand upon the materials that you would receive?

13 A Yes, sir.

14 Q And why?

15 A We were making first zinc sulfate, later we made zinc  
16 chloride. Zinc chloride was used as a main product in a fire  
17 retardant for wood, but you would also need ammonium sulfate  
18 and boron and chromic acid and chromic acid was the most  
19 expensive one, of course.

20 And we found that the Boeing Company or any other  
21 plating from time to time had a waste plating bath that they  
22 wanted to get rid of. I was interested in that and at the  
23 beginning I purchased once in a while a load of old plating  
24 bath.

25 Q And then at the some point in time did you make a

1 transition where you would get it for free?

2 A Prior to this letter, I think in '62 or '63, Walt Maybee  
3 said, "Could you use a lower concentration?" I always wanted a  
4 32 percent concentration. We have plating bath -- treatment  
5 bath that have only two percent chromic acid in it.

6 And I said, well, yes, I could but we would have to  
7 evaporate it, so why don't you pay me for that. We did it once  
8 or twice and we thought that was a mess. He had to keep track  
9 of it and he couldn't, so we decided to do it for free; both  
10 ways, I didn't charge Boeing and Boeing didn't charge me.

11 And later on when all the other problems came to the  
12 front like the alkaline waste, mixed any concentration but not  
13 chemical solutions, we made a dumping fee.

14 Q When you say dumping fee, what do you mean by that?

15 A That is a terminology that we use for material that Boeing  
16 wanted to get rid of, to dump and that we accepted.

17 Q And when you say dump, where would they dump it?

18 A In our facility.

19 Q Would they just put it on the ground?

20 A No, no. It went in tanks. For me it was not a waste. For  
21 Boeing Company it was a waste.

22 Q Now, in this letter, September 15, 1964, it lists out  
23 several categories and let me go through them quickly. You  
24 want chromates of my concentration. And why is that?

25 A That is what I explained to you, that we had this very

1 concentrated and very dilute, but I wanted only chromates.

2 Q How about chromates containing sulfuric acid, what benefit  
3 was that to you, if any.

4 A That is a little more difficult. What you have to do is  
5 add ammonia to it so you get ammonium sulfate. So we had to  
6 keep it separate, not that we couldn't handle it, but keep it  
7 separate.

8 Q And it says other acids mixed, any concentration. What use  
9 were you making of those, if any?

10 A We could handle those by adding them to the zinc sulfate,  
11 acid and acid.

12 Q How about alkalines?

13 A And the only thing that they had as an acid was nitric  
14 acid.

15 Q How about alkalines?

16 A There are different kinds of alkalines. There are the  
17 cleaning alkalines, which was plain caustic soda and the  
18 chemical milling solution. There is also caustic soda, but  
19 Boeing has a plate of aluminum, they put the wax on it, they  
20 etch it out and they dip it in caustic soda and it eats the  
21 aluminum out and can make very fine lines on it.

22 As an etch, you have a chemical milling solution and  
23 that is used as a flocculent in sewage treatment.

24 Q Then it says insoluble oils mixed. What use did you make  
25 of those, if any?



1 A We burned them under the boiler.

2 Q And then it says fuels, disgarded jet fuel or aviation gas?

3 A Yes. It happens if Boeing was trying a new plane out, they  
4 went up in the air and by the time they came down, they drained  
5 all the tanks out and discarded the jet fuel. We mixed that  
6 with the oil and burned it.

7 Q Would you go to the next exhibit, please, sir. And do you  
8 recognize that as a letter from the state Pollution Control  
9 Commission to Boeing?

10 A To the Boeing Company, yes, sir.

11 Q And is there a number at the bottom 20012748?

12 A That's right, sir.

13 Q And does it show you getting a copy of that letter?

14 A It is signed by Duane Blunt, I see.

15 Q At the bottom left-hand corner I think there is a cc.

16 A Yes.

17 Q Do you recall getting a copy of that letter, by any chance?

18 A I don't recall receiving it, but I am sure I got one.

19 Q Now, in the first paragraph Mr. Blunt states, "In our  
20 meetings of the past few months we have attempted to eliminate  
21 the basically unsatisfactory method of disposing of Boeing's  
22 metal finishing and oil waste to ground surface areas by  
23 disposal to an approved local reduction firm."

24 Q Were you involved in any of those meetings, Mr.  
25 Nieuwenhuis?

1 A I was not.

2 Q The second paragraph states in part, "The Pollution Control  
3 Commission has inspected and reviewed Western Processing's  
4 operation and equipment and have found them to be adequate for  
5 plating, anodizing, et cetera, waste storage and treatment."

6 Do you recall anyone from the Pollution Control  
7 Commission inspecting your plant for this purpose prior to  
8 October of 1964, and, if so, who?

9 A No, sir, I do not recall anybody specifically at that time.

10 Q Had there been members of the state Pollution Control  
11 Commission that would come by from time to time during that  
12 period of time?

13 A Oh, yes.

14 Q And who were they?

15 A Duane Blunt came oftentime by, Lyman Nielson came by, and  
16 by that time they had a certain inspector. I think his name  
17 was Nunnelly.

18 Q Now, in the last sentence of the second paragraph it says,  
19 "Disposal of cyanides is something which we will have to  
20 continue working for a solution." Did you develop a solution  
21 for the handling of cyanides?

22 A Finally we found a solution for handling cyanides, yes,  
23 sir.

24 Q And what was that and when did you do that?

25 A It was mixing it with pickle liquor from the steel mill and

1 making inert product, blue pigment called ferro-ferri-cyanide.

2 Q Was the cyanide you took from the Boeing Company ever just  
3 poured on the ground?

4 A No, sir.

5 Q How was it handled, then?

6 A We had two tanks, 16 and 17, each holding 50 thousand  
7 gallons.

8 Q Do you recall when that process was developed?

9 A No, not off the top of my head, but I think I can find it  
10 back. I don't have it at this time, sir. I didn't expect that  
11 question. I would have had the answer.

12 Q Now, I want to go to the next exhibit. Do you have in  
13 front of you a letter to Western Processing dated October 29,  
14 1965?

15 A Yes, sir.

16 Q And on the lefthand does it have a stamp 28021622?

17 A That's correct, sir.

18 Q Now, do you recall receiving this letter, by any chance?

19 A I do not particularly recall it, sir, it is so long ago,  
20 but yes, this letter I received.

21 Q Were you making products out of the Boeing waste?

22 A Yes, sir.

23 Q And what type of products were they?

24 A There was a fire retardant in wood, mostly, yellow striping  
25 at the middle of the road, lead chromate, but I don't know if I

1 made it in '65 already. I don't recall it.

2 Q Would you go to the next exhibit, please. Can you identify  
3 that for me, sir?

4 A Yes, sir. This looks like the application to the Small  
5 Business Administration for a loan.

6 Q And on the front page you see LJ 700141?

7 A That is correct.

8 Q And it goes through, I think, 700144 J, is the last page, I  
9 think. Did you prepare this yourself, sir, do you recall?

10 A I think the accounting firm prepared it.

11 Q How about the -- if you go through it, the page is talking  
12 about the factual history and the like. Was that information  
13 prepared by you?

14 A That it would --

15 Q The factual information here, as distinguished from  
16 financial, would have been prepared by you?

17 A It was by me, yes, sir.

18 Q And did you attempt to be accurate as best you could?

19 A Yes, sir.

20 Q And was this made in the normal course of your business,  
21 this proposal, this concept?

22 A Yes, sir, it was.

23 Q Go to, if you would, page 6, numbered page 6.

24 A Yes, sir.

25 Q Now, it states at the top, "With encouragement of and under

1 the direction of the Washington State Pollution Control  
2 Commission facilities have been installed to process those  
3 chemicals that would result in serious pollution problems if  
4 dumped into sewers of public waters."

5 Was that accurate at the time?

6 A At that time it was accurate, yes, sir.

7 Q Then it has got a history relating to the Boeing Company.  
8 It states, "So far the Boeing Company has been dumping its  
9 waste chemicals at the Seattle South Park dump and the Maple  
10 Valley dump, while cyanides were shipped out for burial at  
11 sea." Do you know the source of that information?

12 A I think it was Walt Maybee.

13 Q And the next one states, "The Seattle South Park dump will  
14 be closed by January 1, '65, while the Pollution Control  
15 Commission is making every effort to stop dumping of waste  
16 chemicals and in particular chromates at the Maple Valley  
17 dump."

18 Do you recall who the source of that information was?

19 A Walt Maybee. This was general well-known information. It  
20 wasn't against the law to do that.

21 Q At the time?

22 A At that time.

23 Q Then it says, "An agreement was made with the Boeing  
24 Company to take over the disposal of these waste chemicals  
25 starting November 1, 1964." Would that be accurate as best you

1 can recall?

2 A It is accurate as best I recall, yes, sir.

3 Q I want to skip a little bit, a couple of paragraphs, it  
4 goes, "Chemical milling operations generate large quantities of  
5 caustic solutions which we now process from the Boeing Company  
6 and the Heath Plating Company." Do you see where that is?

7 A Yes, sir.

8 Q What use did you make of the caustics?

9 A At that time you filtered out and we thought it would be an  
10 excellent product for Metro in their sewage treatment as  
11 flocculent.

12 Q Okay. Now, would you go to page 8?

13 A I have it, sir.

14 Q And it talks about a number of products, Brewer's yeast,,  
15 zinc sulfate, zinc chloride and sodium -- how do you say that  
16 last one? I can't say that one?

17 A Sodium hydroxymethanesulfonate.

18 Q I bet you the court reporter can't get that one either.  
19 Can you spell that?

20 A No, it's too long. SFB is the trade name, SFB, sodium  
21 formaldehyde bisulfite, sodium hydroxymethanesulfonate.

22 Q Now, were these all products that you were making at your  
23 plant at the time?

24 A Yes, sodium hydroxymethanesulfonate is used for viscosity  
25 control in plywood glue. It is used in connection with the

1 blood.

2 Q How about zinc chloride?

3 A The zinc chloride was used in fire retardant in wood.

4 Q Zinc sulfate?

5 A Zinc sulfate is used in fertilizers.

6 Q Brewer's yeast?

7 A Brewer's yeast is used in feed.

8 Q Then it says -- the next page, page nine, coppersulfate,  
9 what is that?

10 A Coppersulfate is used as algae control in drinking water.

11 Q And how about sodium aluminate? What were you doing with  
12 that?

13 A I don't recall if I ever sold it. We didn't have to do  
14 anything. Just filter it and clean it.

15 Q How about zinc chromate and chrome yellow?

16 A Zinc chromate was used in the paint industry, a pigment.  
17 Zinc chromate has the disadvantage that it is not stable in sun  
18 light, it fades, while lead chromate is stable.

19 Q Now, page 10, there is a reference to cyanides and it  
20 states, "Cyanides form a serious disposal problem because of  
21 high toxicity. Under approval of the Washington State  
22 Pollution Control Commission and the Washington State Health  
23 Department Western Processing Company has developed a method of  
24 disposing of these chemicals by destruction. At the present  
25 time we are not counting on the recovery metals, but will

1 operate strictly on the basis of a destruction facility and  
2 charge for our services."

3 Now, is that accurate?

4 A Yes, that's accurate. That is the standard method, the  
5 textbook method of disposing of cyanide, by bubbling chlorine  
6 gas through.

7 Q Then what happens to the cyanide?

8 A It breaks down. Cyanide is only carbon and nitrogen. You  
9 add the chlorine to it you get nitrogen chloride and the whole  
10 thing breaks down. It is a different way of doing it.

11 Q And initially is that how you handled the cyanide?

12 A That is initially the way we did it, yes, sir.

13 Q Then was there some other transition, you did something  
14 else at a later time?

15 A Not right away, but we were looking for a better method  
16 than this.

17 Q And eventually did you develop such a method?

18 A And eventually we found a method of adding pickle liquor to  
19 it.

20 Q Then it says metals recovery. What did you do there?

21 A We got the skimmings from galvanizing plants to make zinc  
22 sulfate. We found that there was lots of pieces of metal in it  
23 and we thought we could reclaim the metal as metal, which  
24 brings a much higher price. So we had in the far south end of  
25 the plant a metals recovery facility.



1 Q Now, would you go to the next exhibit, please. I think  
2 there may be -- are there two Boeing purchase orders there,  
3 sir, in the exhibit?  
4 A It looks like two purchase orders.  
5 Q Keep going. I think --  
6 A Actually two pages, one purchase order.  
7 Q And that first one is 20012750?  
8 A That's right, sir.  
9 Q And 51?  
10 A Yes, sir.  
11 Q And then right behind that is there another one?  
12 A No, sir.  
13 Q Keep going with me?  
14 A Keep going.  
15 Q Yeah.  
16 A Yes, sir, there is another one; there is no number on it.  
17 Q It got Xeroxed out, but does it have a purchase order  
18 number 6-2677724-0766 N in the top right?  
19 A Yes, sir.  
20 Q Now, I don't want to prolong this very long. Go back to  
21 the first purchase order.  
22 A Okay.  
23 Q And it covers a term from when to when? It's in the  
24 middle, I think, Mr. Nieuwenhuis.  
25 A I am looking for it. Term of the order July the 1st, '66,

1 through June 30th, 1967.

2 Q Now, this purchase order --

3 A It is strictly a purchase order. It's not a contract.

4 Q Now, this purchase order reflects that the Boeing Company  
5 would pay you for certain types of waste.

6 A Yes, sir.

7 Q And is that consistent with your recollection, that there  
8 was a transition from the point in time when you paid the  
9 Boeing Company versus -- did you ever pay anyone to this point  
10 in time?

11 A It was just past the transition point.

12 Q Where Boeing started to pay you?

13 A That's correct.

14 Q Now, you see pretty much in the middle, little lower  
15 middle, number four paragraph? It states, "Western Processing,  
16 Co, agrees that in consideration of the above price disposal of  
17 said liquid waste will be made in accordance with all  
18 requirements of the City of Kent, the State of Washington, the  
19 Pollution Control Commission or any other duly constituted  
20 government authority?

21 A Yes, sir, I see that.

22 Q And did you endeavor to do that?

23 A To the best of my ability I did, sir.

24 Q Would you go to the next exhibit, please? And that is a  
25 letter from whom to whom, if you could tell me?

1 A From the Boeing Company addressed to Western Processing.

2 Q Dated as of?

3 A Signed by Bert Connington. The date is August 17, 1966.

4 Q Do you see a stamp there on the left-hand corner, 2802 -- I  
5 can't even read mine.

6 A 1617.

7 Q Yes. 1617. And it references certain purchase orders,  
8 does it not?

9 A Yes, sir.

10 Q Now, do you recall getting this letter, by any chance?

11 A I do not recall it as such, no, sir.

12 Q In the first paragraph the Boeing Company states to you,  
13 "Please be advised that the plant services section of  
14 facilities at the Auburn branch hereby grants to Western  
15 Processing the right of first refusal to accept delivery of  
16 liquid wastes originated from the Auburn facility for the  
17 duration of the above-referenced purchase order."

18 Do you recall ever becoming interested in getting what  
19 wastes would be generated out of the Auburn treatment plan?

20 A Yes, we were, but I was informed at that time, now you  
21 better be prepared because we may be dumping a hundred thousand  
22 gallons at a time and I was not able to handle that, so at that  
23 time I wanted the right of first refusal. We never have used  
24 it. But the request was in there because we were afraid we  
25 couldn't handle the volume. The Boeing Auburn plant came in

1 operation at that period of time.

2 Q Was this a new facility, as best you can recall?

3 A It was a new facility that Boeing had installed in Auburn.

4 Q And what eventually occurred? Did you start receiving the  
5 Auburn waste generated out of the Auburn treatment plant?

6 A The first couple of loads went all right. Then they seemed  
7 to have had a mishap there, I would say, and they called me on  
8 a Friday night, that they were coming with 125 thousand gallons  
9 of chromic acid solution. And we didn't know what to do with  
10 it, so we put it in that big pond that we also called an old  
11 ditch in the south portion of the property. They had rented  
12 tank trucks from Inland and they were running continuously with  
13 six truck trailers and removing that material from the Auburn  
14 plant.

15 By Sunday afternoon there was still just as much in  
16 the pit as there was when they started and they had left a  
17 water valve open, the last solution, because it was almost  
18 plain water, but nevertheless we got the volume in.

19 Q Now, would this be the --

20 A And that was one we could have refused and we didn't.

21 Q Now, the -- as it turned out, when you started getting the  
22 waste from the Auburn treatment plant, did you get concentrated  
23 waste, as well as sludge?

24 A Yes, sir, both.

25 Q And what's the distinction?

1 A The sludge -- they had a plant especially installed for the  
2 rinse water that contained very, very little of chromic acid or  
3 other kinds of waste, where they neutralized it by dumping lime  
4 in it to run it through a filter and they had the sludge left  
5 over. That is what they call the Auburn sludge because -- say  
6 90 percent lime and 10 percent heavy metals.

7 Q And how was that sludge handled, if you can recall, by you?

8 A In the beginning we got it in a dump truck and later on it  
9 was more liquid that came into it in a tank struck as a slurry.  
10 At that time we didn't know much what to do with it and we  
11 stored it. Later on we found that we could mix it in with the  
12 lime that was used in agriculture in Okanogan.

13 Q And when did that occur, do you recall?

14 A I think three, four years later.

15 Q And when you say slurry, what do you mean by that?

16 Q It was not a solid. You couldn't walk over it. On the  
17 other hand, it was more, let's say, like thick pea soup.

18 Q And was there water in that slurry?

19 A There was water in the slurry, yes.

20 Q Let's go to the next exhibit, please. Can you identify  
21 that for me?

22 A It's another application to the Pollution Control  
23 Commission that is dated on October 17th, 1966, so that must be  
24 after the first permit was ended five years later.

25 Q And did you in fact get a new permit effective October 24,

1 1966?

2 A Yes, sir, I did. At that time I asked for more volume of  
3 disposal into the creek.

4 Q And what facilities had you put in there to qualify for  
5 that permit, if you can recall?

6 A At that time they were not only the driers and the wooden  
7 vents, but we made the zinc sulfate that we had accumulated,  
8 maybe at that time 40, 50 tanks to receive the liquids in. We  
9 had installed ponds. I explained before that they were very  
10 common, shift the rain pond to an above ground pond, from an  
11 above ground pond to a concrete pond.

12 Q Over time?

13 A Over a period of time.

14 Q And what's the next exhibit, if you can identify that for  
15 me?

16 A That's the same permit. One was probably application. No.  
17 First the permit that the previous letter was accompanied by.

18 Q And what was the date of issue and date of expiration?

19 A October 24, 1971.

20 Q Would be what, when it expired?

21 A When it expired, yes.

22 Q When was it issued, effective when?

23 A Issued October 24, 1966. Pardon me. I thought you said  
24 when did this expire.

25 Q Now, under this permit how many gallons per day could be

1 discharged?

2 A I could at that time discharge 50 thousand gallons a day.

3 Q And could you do that directly to the drainage ditch in  
4 Mill Creek?

5 A No, that would go via the treatment plant.

6 Q Explain to me how that would work again?

7 A It would accumulate first in one big tank where all the  
8 setttable solids settled out. The liquid was pumped off and  
9 went through the Army drain field, old Army drain field.

10 Q Excuse me, I'm sorry. From the Army drain field it went to  
11 a chlorination pit and from the chlorination pit it went  
12 through an outfall line into the creek.

13 Q And what would that material consist of?

14 A All kinds of water, processed water, as well as rain water.

15 Q Now, in this permit did it define waste as a total volume  
16 of cooling and contaminated waters to be discharged?

17 A Yes, sir.

18 Q And did it also, like the prior one, prohibit direct  
19 discharge to the drain ditch?

20 A That is correct, just like the previous one.

21 Q And how about condition number five. What did that  
22 provide, concerning chemical residues?

23 A It was the same provision as the previous one, the residues  
24 that were solid had to be disposed of on land, they couldn't go  
25 in the creek or in the sewer.

1 Q And did you attempt to comply with that?  
2 A Yes, sir, I did.  
3 Q Did you comply with that?  
4 A Yes, sir, I did.  
5 Q How about paragraph six termed chemical sludges or sludges  
6 containing oils or sludges having high or low pH values must be  
7 disposed of on land and not discharged to state waterways?  
8 A Yes, sir, I did that, too.  
9 Q Did you comply with that one?  
10 A Yes, sir.  
11 Q Would you go to the next exhibit, please. Are you with me?  
12 A I am with you.  
13 Q And this is a letter dated June 20, '68, from yourself to  
14 the Puget Sound Air Pollution Control Agency?  
15 A Yes, sir.  
16 Q I think there is a related one next to it, if you want to  
17 look at that, to the City of Kent Fire Department?  
18 A Yes, sir.  
19 Q Dated what?  
20 A June 20, 1968.  
21 Q Do you recall this incident, by any chance?  
22 A Yes, sir, I do.  
23 Q And the first exhibit I referred to is PS 704167. Do you  
24 see that?  
25 A Yes, I do.



1 Q Tell me about the incident?

2 A Because of the heavy rain we had a pond that we normally  
3 used for oils and coolants and the coolants, I mean what we  
4 talk about before, 90 percent water and 10 percent oil.

5 Q And in the course of the heavy rain the pond filled up and  
6 ran over and some of it came into the creek that was on the  
7 east side of the Western Processing premises.

8 Q Why did you contact Puget Sound Air Pollution Control  
9 Agency and the Kent Fire Department?

10 A We found that it was awfully difficult to get enough -- and  
11 just burn it off would be simple.

12 Q When you had instances like this occur would you attempt to  
13 contact governmental agencies?

14 A Yeah, you would, but they always wanted it in writing.

15 Q And did you alleviate this situation? What happened to it?

16 A We pumped the water out from underneath there, the oil came  
17 down and settled on the ground and we put straw on it to suck  
18 up the oil that was in that straw and then the straw goes in  
19 the county dump.

20 Q Go to the next exhibit, please. Can you identify that for  
21 me?

22 A This is a contract that was made between the Boeing Company  
23 and Western Processing company. It is dated on the first day  
24 of April 1968.

25 Q And was this the first written contract that both firms

1 executed?

2 A This is not a purchase order any more. The first two was a  
3 purchase order. This is in the form of a contract, a  
4 continuous contract.

5 Q And it is dated as of when, sir?

6 A The first first day of April 1968.

7 Q And at the bottom does it have a stamp of 20011839?

8 A That is correct.

9 Q Through the last page, is 845?

10 A Yes, sir.

11 Q Now, would you go to section two, which is I think on the  
12 second page?

13 A Yes, sir.

14 Q And section two provides in part, "Contractor shall comply  
15 with all applicable federal, state and local laws and  
16 ordinances and all lawful orders, rules and regulations  
17 thereunder, including, but not limited to, Social Security and  
18 income tax withholding laws, unemployment compensation laws,  
19 safety standards and Pollution Control Commission codes."  
20 Throughout the period of time that you handled Boeing waste did  
21 you comply with that provision?

22 A Yes, sir, I did. I wanted to get on with Boeing's business  
23 but Boeing I understand was concerned if I didn't they could  
24 get in trouble, so there was a stipulation in the contract.

25 Q And did you attempt to comply with it?

1 A I did comply with it.

2 Q At all times you handled the Boeing waste?

3 A At all times I did.

4 Q Did Boeing ever encourage you not to comply with any  
5 applicable laws and regulations?

6 A No, sir, never did.

7 Q Would you go to the next exhibit, please?

8 A That's a letter from Western Processing to the Boeing  
9 Company dated April 24, 1968.

10 Q And I am going to represent to you, Mr. Nieuwenhuis, that I  
11 think that was a typo and it was really April 24, 1969. Will  
12 you accept that for the purposes of examination?

13 A Yes.

14 Q And that has a got a stamp 20011863?

15 A That is correct, sir.

16 Q In the first paragraph it states -- excuse me, the second  
17 paragraph, "After some initial problems during the startup  
18 period some years ago, the arrangement between our companies  
19 has worked quite well. Western Processing has been able to  
20 accept dumps in the 60 thousand to 120 thousand gallon range  
21 without problems."

22 Can you tell me some of the initial problems that  
23 occurred and what you did to alleviate them?

24 A Just go after everything. For instance, dumps come in  
25 without a dump ticket. The driver doesn't know from which

1 plant it came from, he didn't know what was in the tank. It  
2 has caused errors and gradually we got that straightened out.

3 Q And over what period of time did those kind of problems get  
4 straightened out?

5 A The first two or three years we had most of the problems.

6 Q And as of 1969 had they been straightened out.

7 A The only thing that I complained about -- I don't know  
8 about this letter yet, but we always complained that they had a  
9 lot of little containers, two gallons, five gallons, 10  
10 gallons, most of them not labeled. They came in in groups of  
11 of 50 or one hundred of them and they caused a lot of problems.  
12 I complained about it several times to see if we could make it  
13 -- could put the thing together, but that seemed to be a  
14 problem, too.

15 Q Did you work on that problem also through time?

16 A Yes, we did several times.

17 Q And did it get improved over time?

18 A Up to the end it was not any better.

19 Q Now, in this letter you ultimately asked for a raise in the  
20 price that Boeing was paying to you. Go to the third page.

21 A Yes, sir.

22 Q A raise from what to what?

23 A From one and a half cents to three cents.

24 Q And what had occurred that made you request this increase?

25 A During the course of the business it could be established

1 that Western Processing was losing money on the Boeing waste.  
2 Boeing was -- for instance, the little things I talked about.  
3 The other thing was, there were several things that were not  
4 reclaimable actually and we didn't know what to do with it and  
5 it caused quite a bit of trouble.

6 At that time the financial situation was not so good  
7 any more and we got a new board of directors, of which the Bank  
8 of Tacoma was one. You see here a whole list of people that we  
9 found willing to serve on the board of directors.

10 And they said, well, what you do is the wrong way and  
11 you rob Peter to pay Paul. Your production makes money, you  
12 loss it on the dumping fee, or you make money on the dumping  
13 fee and you lose it in the production. You have to separate  
14 the bookkeeping in two parts. And then if you need chromic  
15 acid you can buy it on the market or you can buy it from the  
16 dumping at the same price. So you have to separate those.  
17 They should be separated and we did. That turned out that we  
18 would have to charge Boeing a higher price and this letter I  
19 was asking Boeing to go along with that.

20 Q And did you meet with a representative of the Boeing  
21 Company about that, by any chance?

22 A Yes, both with Bob Dalin and with Walt Maybee.

23 THE COURT: Why don't we pause at this point. I would  
24 like to see counsel here in the courtroom at 8:45 tomorrow  
25 morning. We will go over a couple of matters and the jury is

1 about to be excused until nine o'clock.

2           Members of the jury, during this interval please  
3 remember do not discuss the case with anyone, don't let anyone  
4 discuss it with you and do not watch, read or listen to any  
5 news accounts concerning the case.

6           You are excused now and we will be at recess until  
7 nine o'clock tomorrow.

8           (Court adjourned.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25